

LOST, NOT STOLEN:

The Conservative Case that Trump Lost and Biden
Won the 2020 Presidential Election

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Introduction

We are political conservatives who have spent most of our adult lives working to support the Constitution and the conservative principles upon which it is based: limited government, liberty, equality of opportunity, freedom of religion, a strong national defense, and the rule of law.

We have become deeply troubled by efforts to overturn or discredit the results of the 2020 Presidential Election. There is no principle of our Republic more fundamental than the right of the People to elect our leaders and for their votes to be counted accurately. Efforts to thwart the People's choice are deeply undemocratic and unpatriotic. Claims that an election was stolen, or that the outcome resulted from fraud, are deadly serious and should be made only on the basis of real and powerful evidence. If the American people lose trust that our elections are free and fair, we will lose our democracy. As Jonathan Haidt observed, "We just don't know what a democracy looks like when you drain all the trust out of the system." Paul Kelly, *"Very Good Chance" Democracy Is Doomed in America, Says Haidt*, AUSTRALIAN (July 20, 2019).

We therefore have undertaken an examination of every claim of fraud and miscount put forward by former President Trump and his advocates, and now put the results of those investigations before the American people, and especially before fellow conservatives who may be uncertain about what and whom to believe. Our conclusion is unequivocal: Joe Biden was the choice of a majority of the Electors, who themselves were the choice of the majority of voters in their states. Biden's victory is easily explained by a political landscape that was much different in 2020 than it was when President Trump narrowly won the presidency in 2016. President Trump waged his campaign for re-election during a devastating worldwide pandemic that caused a severe downturn in the global economy. This, coupled with an electorate that included a small but statistically significant number willing to vote for other Republican candidates on the ballot but not for President Trump, are the reasons his campaign fell short, not a fraudulent election.

Donald Trump and his supporters have failed to present evidence of fraud or inaccurate results significant enough to invalidate the results of the 2020 Presidential Election. We do not claim that election administration is perfect. Election fraud is a real thing; there are prosecutions in almost every election year, and no doubt some election fraud goes undetected. Nor do we disparage attempts to reduce fraud. States should continue to do what they can do to eliminate opportunities for election fraud and to punish it when it occurs. But there is absolutely no evidence of fraud in the 2020 Presidential Election on the magnitude necessary to shift the result in any state, let alone the nation as a whole. In fact, there was no fraud that changed the outcome in even a single precinct. It is wrong, and bad for our country, for people to propagate baseless claims that President Biden's election was not legitimate.

In the past 30 years, those tasked with administering our elections have helped create a modern election system in which we can and should have confidence. In all fifty states and at the national level there are transparent recount and election contest procedures designed to allow candidates to investigate and litigate claims of voter fraud and corruption. Those procedures have been tested in every presidential election since at least 2000 and have been found in every instance to be sound and reliable. The Trump Campaign and its supporters had full access to these remedies and used them in 64 proceedings in the states we examine, and in each instance, their claims of fraud and miscount failed. Our review of each of these Trump charges affirms that

the 2020 election was administered by trained professionals who reaffirmed their established track record for fairness.

The performance of the system in 2020 was all the more remarkable because of the extraordinary circumstances caused by the COVID-19 pandemic, which precipitated changes on an unprecedented scope and timeline. Some of those changes may have created possibilities for fraud, but there is no evidence that those risks materialized in reality; nor did they result in dampening voter participation—quite the opposite. Nonetheless, moving forward, the states should redouble their efforts to strengthen the integrity of our voting systems and make it as easy to vote and as hard to cheat as possible for persons of every circumstance.

We urge our fellow conservatives to cease obsessing over the results of the 2020 election, and to focus instead on presenting candidates and ideas that offer a positive vision for overcoming our current difficulties and bringing greater peace, prosperity, and liberty to our nation.

Executive Summary

As part of his post-election attempts to retain the presidency, Donald Trump and his supporters filed 64 cases containing 187 counts in the six key battleground states, in addition to utilizing some of the recount and contest procedures available to them under state law. The former president maintains to this day that the 2020 election was stolen and the results fraudulent.

This Report takes a hard look at the very serious charges made by Trump and his supporters. The consequences of a president and a major party candidate making such charges are monumental. If true, our electoral system is in desperate need of repair. If not true, that must be said because such false charges corrode our democracy and leave a significant share of the population doubting the legitimacy of our system, seriously weakening the country.

Every member of this informal group has worked in Republican politics, been appointed to office by Republicans, or is otherwise associated with the Party. None have shifted loyalties to the Democratic Party, and none bear any ill will toward Trump and especially not toward his sincere supporters. Many of us have worked over the years in polling places as part of Republican Election Day Operations looking for the same sort of fraud and irregularities Donald Trump claimed in 2020. Such vigilance is entirely appropriate and must not be stigmatized as “voter suppression.”

Fraud, irregularities, and procedural deficiencies formed the basis for challenging the results in five of the six highly contested Electoral College battleground states of Arizona (page 7), Georgia (page 27), Michigan (page 36), Nevada (page 47), and Wisconsin (page 64). In Pennsylvania (page 53), Trump verbally attacked the elections as fraudulent, but his lawyers never filed such charges in court.

For this Report, we examined every count of every case brought in these six battleground states. We include both a narrative for each state and an accompanying Addendum listing each case and its disposition.

We conclude that Donald Trump and his supporters had their day in court and failed to produce substantive evidence to make their case.

Of the 64 cases brought by Trump and his supporters, twenty were dismissed before a hearing on the merits, fourteen were voluntarily dismissed by Trump and his supporters before a hearing on the merits, and 30 cases included a hearing on the merits. Only in one Pennsylvania case involving far too few votes to overturn the results did Trump and his supporters prevail.

Repetition of these false charges causes real harm to the basic foundations of the country, with 30 percent of the population lacking faith in the results of our elections.

In our system of government, these cases provided the forums in which Trump and his supporters could and should have proven their claims. This Report shows that those efforts failed because of a lack of evidence and not because of erroneous rulings or unfair judges. Judges, legislators, and other election officers, often including members of his own party, gave Trump ample time and every opportunity to present evidence to make his case. Post-election audits or

reviews in each state also failed to show any irregularities or fraud that would overturn the electoral results. In many cases, after making extravagant claims of wrongdoing, Trump’s legal representatives showed up in court or state proceedings empty-handed, and then returned to their rallies and media campaigns to repeat the same unsupported claims.

Even now, twenty months after the election, a period in which Trump’s supporters have been energetically scouring every nook and cranny for proof that the election was stolen, they come up empty. Claims are made, trumpeted in sympathetic media, and accepted as truthful by many patriotic Americans. But on objective examination they have fallen short, every time.

Moreover, even if there were such evidence (which we did not find), there is an obligation on the part of a campaign challenging the veracity of official results to bring its challenges on a timely basis, through the established legal channels, based on ordinary rules of evidence and logic. In our system of government, these proceedings provide the forums in which Mr. Trump and his supporters could and should have proven their claims. They had every opportunity to use those channels.

Once they had lost, Trump and his supporters had an obligation to recognize that the election debate was over. Questions of election legality must be resolved dispassionately in courts of law, not through rallies and demonstrations—and most emphatically, not by applying political pressure and threats to induce Congress to ignore its constitutional duty and the electoral outcome for which the people voted, and which the legal processes of the affected states had examined and confirmed. The same system used to bring all his cases, recounts, and contests also sets deadlines for when the process becomes final, a winner is declared, and the losing candidate concedes. Trump failed to abide by that norm in contrast to prior losers of presidential elections such as Richard Nixon and Al Gore.

After reviewing the evidence presented in each court case and the post-election reviews with this lens, certain patterns emerge. Most obvious is that the former president’s rhetoric—before, during and after the election—was not supported by the legal cases he tried to make or any evidence he introduced. Cases and reviews in the six battleground states included similar charges and similar dismissals by federal and state courts. This chart describes the nature of Trump’s charges and the pages of each state’s narrative that describe the outcome:

Fraud or ballots improperly counted:

Arizona, page 10;
Georgia, page 29;
Michigan, page 42;
Nevada, page 48;
Pennsylvania, page 58;
Wisconsin, page 67.

Voting machines producing rigged results:

Arizona, page 10;
Georgia, page 31;
Michigan, page 41;
Nevada, page 49.

Absentee ballot or mail-in ballot irregularities:

Arizona, page 11;
Michigan, page 42;
Pennsylvania, page 56;
Wisconsin, page 65.

Ineligible voters:

Arizona, page 12;
Georgia, page 29;
Michigan, page 43.

Observers access blocked/failure to monitor polling places:

Arizona, page 12;
Georgia, page 32;
Michigan, page 40;
Nevada, page 48;
Pennsylvania, page 55.

Post-election reviews and audits: In addition to the numerous legal cases, the six states conducted post-election reviews at the insistence of or because of the Trump allegations. This Report discusses those efforts, which also failed to support the allegations from Trump and his supporters:

Arizona: Cyber Ninjas review, pages 7–10, 16.

Georgia: The Secretary of State manually recounted all five million ballots cast (page 27) and conducted a post-election audit.

Michigan: Separate post-election investigations by a Michigan State Senate committee chaired by Republican Ed McBloom, pages 36–40, and Michigan’s Office of the Auditor General, pages 36, 37.

Nevada: Republican Secretary of State investigations of voting complaints, page 47.

Pennsylvania: A statewide risk-limiting audit in February 2021, page 54. Republican state senators pursued a forensic audit that has yielded no evidence to date, page 54.

Wisconsin: The Wisconsin Legislative Audit Bureau, a non-partisan, independent body, found no evidence of widespread fraud to alter the election results, page 64. The conservative Wisconsin Institute for Law & Liberty likewise found no evidence of widespread voter fraud and no evidence of significant problems with voting machines, page 64. Wisconsin House Republicans hired a former state Supreme Court justice to examine the election; an interim report cited no evidence of fraudulent votes sufficient to overturn the results, page 65.

After the dismissal of all 64 court cases and state reviews, Trump and his supporters have continued in the sixteen months since Joe Biden’s Inauguration with claims of a fraudulent election. Each has been refuted. Two of the most publicized examples illustrate this. In the first, economist John Lott Jr. produced a paper in *Public Choice* claiming that “simple tests of voter fraud” showed excess votes for Biden in Pennsylvania and Georgia and 255,000 excess votes in

six key states due to artificially large turnout across several counties. That was quickly refuted by political scientists Andrew Eggers and Justin Grimmer.¹

A second example is a recent film from Dinesh D’Souza, “2000 Mules,”² which attempts to demonstrate rampant voter fraud in the 2020 Presidential Election through digital-device location-tracking data. Yet the film, heartily endorsed by Trump at its Mar-a-Lago premiere, has subsequently been thoroughly debunked in analyses.³ What the film claims to portray is simply not supported by the evidence invoked by the film.

As this Report notes, in five of the six battleground states, analyses have shown that Trump lost not because of fraud but because a small but significant subset of Republican voters supported the GOP’s candidates down-ballot but did not vote for Trump. In many instances, Republican candidates other than Trump won despite being subject to the same alleged fraudulent systems that Trump supporters declaim. *See* pages 7, 27, 36, 53, and 64.

We are most concerned that even after failing in more than 60 court cases to produce evidence of fraud or irregularities that would change the 2020 election results, the repetition of the false charges of a stolen election continues.

To have 30 percent of the country lack faith in election results based on unsubstantiated claims of a “stolen” election is not sustainable in a democracy, and it discredits the political party making those charges. We hope that setting out the full record in this Report will help restore faith in the reliability of our elections.

¹ Andrew Eggers & Justin Grimmer, *Comment on “Simple Tests for the Extent of Vote Fraud With Absentee and Provisional Ballots in the 2020 US Presidential Election”* (Apr. 2, 2022), <https://www.dropbox.com/s/oux7zinzv819o6/Fraud2.pdf?dl=0>.

² 2000 MULES, <https://2000mules.com/> (last visited July 6, 2022).

³ Danny Hakim & Alexandra Berzon, *A Big Lie in a New Package*, N.Y. TIMES (May 29, 2022), <https://www.nytimes.com/2022/05/29/us/politics/2000-mules-trump-conspiracy-theory.html>; Khaya Himmelman, *Fact Checking Dinesh D’Souza’s “2,000 Mules,”* THE DISPATCH (May 21, 2022), <https://factcheck.thedispatch.com/p/fact-checking-dinesh-dsouzas-2000?s=r>; Tom Dreisbach, *A Pro-Trump Film Suggests Its Data Are So Accurate, It Solved a Murder. That’s False*, NPR (May 17, 2022), <https://www.npr.org/2022/05/17/1098787088/a-pro-trump-film-suggests-its-data-are-so-accurate-it-solved-a-murder-thats-fals>; Ali Swenson, *Fact Focus: Gaping Holes in the Claim of 2K Ballot “Mules,”* ASSOCIATED PRESS (May 3, 2022), <https://apnews.com/article/2022-midterm-elections-covid-technology-health-arizona-e1b49d2311bf900f44fa5c6dac406762>; Philip Bump, *“2000 Mules” Offers the Least Convincing Election-Fraud Theory Yet*, WASH. POST (May 11, 2022), <https://www.washingtonpost.com/politics/2022/05/11/2000-mules-offers-least-convincing-election-fraud-theory-yet/>.

Arizona

Donald Trump and his supporters brought eight cases with 29 total counts challenging the results showing he lost Arizona. All were unsuccessful. Subsequently, an Arizona State Senate post-election review conducted by the firm Cyber Ninjas (a private firm hand-picked by the Trump forces) provided Donald Trump and his supporters every opportunity to demonstrate the fraud and irregularities they claimed but could not prove in post-election legal challenges. The Cyber Ninjas' final analysis reaffirmed Trump's loss, claiming 99 *additional votes* for Biden and 261 *fewer votes* for Trump.⁴

Biden outperformed Clinton's 2016 results, and Trump performed worse than he had in 2016. President Biden carried Arizona by a margin of 10,457 votes out of 3.4 million cast in the 2020 Presidential Election, official results from Arizona elections officials show.⁵ Biden received 49.4% of the vote.⁶ Trump received 49.0%.⁷ In 2016, Trump carried Arizona by a margin of approximately 91,000 votes out of almost 2,605,000 votes cast.⁸ Trump received 48.1% of the vote in 2016.⁹ Hillary Clinton received 44.6%.¹⁰ Disaffection for Trump among Republican voters led to ticket-splitting that hurt Trump and helped Biden.¹¹ Nearly 60,000 voters did *not* vote for Trump even though they voted Republican down-ballot; of these, 39,000 voted for Biden.¹² Considering only the two most populous counties in the state, more than 74,000 disaffected Republicans did not vote for Trump in 2020; 65% of these (48,577 votes) voted for Biden; those 48,577 votes alone represent 4.6 times Biden's margin of victory over Trump.¹³

Trump lost significant ground from 2016 among college-educated white women. In 2016, he bested Clinton among that group 48% to 46%.¹⁴ In 2020, Biden won 56% of their vote, leaving

⁴ David Schwartz & Nathan Layne, "Truth Is Truth": Trump Dealt Blow as Republican-Led Arizona Audit Reaffirms Biden Win, REUTERS (Sept. 27, 2021), <https://www.reuters.com/world/us/arizona-republicans-release-findings-widely-panned-election-audit-2021-09-24/>.

⁵ Arizona Secretary of State, *State of Arizona Official Canvass* (Nov. 24, 2020), https://azsos.gov/sites/default/files/2020_General_State_Canvass.pdf.

⁶ *Arizona Election Results & Maps 2020*, CNN (last visited June 9, 2022), <https://www.cnn.com/election/2020/results/state/arizona>.

⁷ *Id.*

⁸ *Arizona Election Results 2016*, N.Y. TIMES (Aug. 1, 2017), <https://www.nytimes.com/elections/2016/results/arizona>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Garrett Archer, *The Other Arizona Election Audit: Disaffected Republicans Handed Arizona to Joe Biden*, ABC 15 ARIZONA (June 22, 2021), <https://www.abc15.com/news/in-depth/the-other-arizona-election-audit>; Garrett Archer, *How President Joe Biden Pulled Off a Win in Arizona*, ABC 15 ARIZONA (Jan. 20, 2021), <https://www.abc15.com/news/election-2020/how-president-joe-biden-pulled-off-a-win-in-arizona..>

¹² Archer, *The Other Arizona Election Audit*, *supra* note 11.

¹³ Benny White et al., *Lessons from Maricopa County: Slow Facts Versus Fast Lies in the Battle Against Disinformation*, INDEPENDENT MEDIA INSTITUTE 5 (Sept. 2, 2021), <https://docs.real-audits.org/s/nqB2jrAzgPdewi2>; see Nathaniel Rakich, *How Arizona Became a Swing State*, FIVETHIRTYEIGHT (June 29, 2020, 7:33 AM), <https://fivethirtyeight.com/features/how-arizona-became-a-swing-state/>.

¹⁴ Eldrid Herrington, *What Happened? Arizona Turned Blue in the 2020 Presidential Election, but the Republicans Still Control the State*, USAPP—AMERICAN POLITICS AND POLICY BLOG (Jan. 21, 2021), <https://blogs.lse.ac.uk/usappblog/2021/01/21/what-happened-arizona-turned-blue-in-the-2020-presidential-election-but-the-republicans-still-control-the-state/>; see also *Exit Poll Results and Analysis from Arizona*, WASH. POST (Jan. 7, 2021), <https://www.washingtonpost.com/elections/interactive/2020/exit-polls/arizona-exit-polls/>.

44% for Trump.¹⁵ Biden also performed well among the growing population of Spanish-speaking voters, receiving 70% of the vote.¹⁶

Trump and some of his supporters maintain that Arizona's certified results were fraudulent. Their evidence falls far short of their claims. Post-election reviews by state election officials found only 182 allegations of voter fraud that merited review.¹⁷ Of that number, only four allegations led to charges, and no person's vote was counted more than once.¹⁸ After conducting a state investigation, the Associated Press did not find widespread voter fraud.¹⁹

After Trump and his supporters alleged that rigged Dominion voting machines cost him the election, the Board of Supervisors in the largest county in the state, Maricopa County, which includes Phoenix, conducted a forensic audit of their Dominion voting machines. The Board retained two independent auditing firms experienced at analyzing election counts and accredited by the bipartisan U.S. Election Assistance Commission to certify the trustworthiness of voting machines.²⁰ The audit determined that the Dominion machines worked properly and found no evidence of manipulation.²¹ An independent review resulting from an agreement between the Republican State Senate and Maricopa County found that the county's vote-counting machines were not connected to the internet and found no evidence of data deletion, purging, or overwriting or other evidence of obstruction.²²

Several counties performed hand counts of the 2020 vote—Maricopa County did so three times. None of the recounts found material discrepancies with the certified results.²³ Few elections in history have been so thoroughly fly-specked after the fact with so little evidence of fraud or of miscounted ballots.

¹⁵ *Exit Poll Results and Analysis from Arizona*, WASH. POST (Jan. 7, 2021), <https://www.washingtonpost.com/elections/interactive/2020/exit-polls/arizona-exit-polls/>.

¹⁶ Herrington, *supra* note 14.

¹⁷ Bob Christie & Christina A. Cassidy, *AP: Few AZ Voter Fraud Cases, Discrediting Trump's Claims*, ASSOCIATED PRESS (July 16, 2021), <https://apnews.com/article/business-government-and-politics-arizona-election-2020-e6158cd1b0c6442716064e6791b4c6fc>.

¹⁸ *Id.*

¹⁹ Christina A. Cassidy, *Far Too Little Vote Fraud to Tip Election to Trump, AP Finds*, ASSOCIATED PRESS (Dec. 14, 2021), <https://apnews.com/article/voter-fraud-election-2020-joe-biden-donald-trump-7fcb6f134e528fee8237c7601db3328f>.

²⁰ *Auditing Elections Equipment in Maricopa County*, MARICOPA COUNTY, <https://www.maricopa.gov/5681/Elections-Equipment-Audit> (last visited June 6, 2022).

²¹ See SLI Compliance, Forensic Audit Report: Dominion Voting Systems, Democracy Suite 5.5B, Report Number: MCA-21001-AR-01 (2021), <https://www.maricopa.gov/DocumentCenter/View/66843/SLI-Compliance-Forensic-Audit-Report?bidId>; Pro V&V, Field Audit Report (2021), <https://www.maricopa.gov/DocumentCenter/View/66844/Post-Audit-Report>.

²² Mary Jo Pitzl & Ronald J. Hansen, *Maricopa County's Vote-Counting Machines Were Not Connected to Internet, Independent Review Finds*, ARIZONA REPUBLIC (Mar. 23, 2022, 4:59 PM), <https://www.azcentral.com/story/news/politics/elections/2022/03/23/arizona-audit-maricopa-county-election-machines-no-internet-connection-review-finds/7050408001/>; JOHN SHADEGG, ANSWERS TO SENATE QUESTIONS REGARDING MARICOPA COUNTY ELECTION NETWORK: ARIZONA 2020 PRESIDENTIAL ELECTION 8–10 (Mar. 23, 2022), <https://www.maricopa.gov/DocumentCenter/View/74501/Final-Report-Answers-to-Senate-Questions>.

²³ See Arizona Sec'y of State, *Summary of Hand Count Audits—2020 General Election* (2020), <https://azsos.gov/2020-general-election-hand-count-results> (last updated Nov. 17, 2020, 4:54 PM).

The Arizona Senate’s Republican majority hired the firm Cyber Ninjas to review the results from Maricopa County. After Cyber Ninjas issued a report raising questions about the election’s administration, the Maricopa County Elections Department issued a rebuttal. We have reviewed the Cyber Ninjas report and the Maricopa County rebuttal and find that the Maricopa County rebuttal systematically refutes each and every one of the Cyber Ninjas’ questions and allegations.²⁴

We concur with the Maricopa County rebuttal, which states: “After an in-depth analysis and review of the reports and presentations issued by the Senate’s contractors, we determined that nearly every finding [by the Cyber Ninjas audit] included faulty analysis, inaccurate claims, misleading conclusions, and a lack of understanding of federal and state election laws.”²⁵ At the heart of the inaccuracies in the Cyber Ninjas’ report “is a basic misunderstanding or ignorance of election laws and procedures.”²⁶ A telling example was the Cyber Ninjas’ claim that 74,000 more early ballots were returned than requested. As Maricopa County noted, that allegation was based on a lack of understanding of the way those ballots are tracked. For example, ballot envelopes may be scanned as “returned” more than once, as when a voter legally cures a questionable signature or unsigned envelope; Cyber Ninjas counted each scan as reflecting a separate returned ballot, when in reality there was just one ballot that was counted just one time.²⁷ Where Cyber Ninjas alleged tens of thousands of questionable ballots, the county identified just 37 (referred to the Republican Arizona Attorney General’s Office for further investigation).²⁸ The Maricopa County rebuttal noted:

In total, we found fewer than 100 potentially questionable ballots cast out of 2.1 million. This is the very definition of exceptionally rare. None of these instances impacted the outcome of races and a thorough review by our election professionals confirmed there were no systematic issues related to ballot counting and processing in the November 2020 General Election.²⁹

After release of this report, and facing contempt fines of \$50,000 per day for failure to comply with a judge’s order that it provide records to an Arizona newspaper, Cyber Ninjas shut down³⁰ having reaffirmed Trump’s loss and a net *gain* for Biden.³¹

²⁴ Maricopa Cnty. Elections Dep’t & Off. Recorder, *Correcting the Record: Maricopa County’s In-Depth Analysis of the Senate Inquiry* (2022) [hereinafter MARICOPA COUNTY REPORT], <https://recorder.maricopa.gov/justthefacts/pdf/Correcting%20The%20Record%20-%20January%202022%20Report.pdf>; see *Just the Facts*, Maricopa County Elections Department, <https://recorder.maricopa.gov/justthefacts/> (last visited Jan. 10, 2022).

²⁵ MARICOPA COUNTY REPORT, *supra* note 24, at 3.

²⁶ *Id.*

²⁷ *Id.* at 68.

²⁸ *Id.* at 5.

²⁹ *Id.*

³⁰ John Wagner, *Cyber Ninjas, the Firm Hired to Conduct an Election Review in Arizona, Ordered to Pay \$50,000 a Day in Sanctions*, WASH. POST (Jan. 7, 2022, 8:21 AM), https://www.washingtonpost.com/politics/cyber-ninjas-the-firm-hired-to-conduct-an-election-review-in-arizona-ordered-to-pay-50000-a-day-in-sanctions/2022/01/07/d6e8dfcc-6fb8-11ec-a5d2-7712163262f0_story.html.

³¹ Schwartz & Layne, *supra* note 4.

The Arizona Senate hired two other firms, CyFIR and EchoMail. CyFIR reviewed Maricopa County’s tabulation equipment and election-management system.³² CyFIR falsely claimed that the county had deleted data, but the county showed that it had properly retained this data.³³ EchoMail reviewed 1.9 million early-ballot affidavit images.³⁴ It made a number of claims about the number of early ballots returned, allegedly duplicate ballot images, and other supposed “anomalies.”³⁵ The County responded that these claims arose from “a flawed understanding of signature verification” laws and practices, namely the difference between a canvass (which counts ballots) and images of envelopes (which may be scanned multiple times if a voter cures a signature issue or signs a blank envelope).³⁶ We concur with the County.

The Trump campaign and its supporters brought an array of federal and state legal actions to Arizona’s certified election results and asserted various claims of wrongdoing by election officials. Each challenge has failed, with some abandoned by their proponent before court determinations.

The legal challenges fall into six categories of claims.

1. Claims that Dominion Voting Machines Were Manipulated.

Plaintiffs in federal and state courts alleged that the Dominion voting machines used in Arizona were manipulated to decrease the count for Trump and increase the count for Biden. The federal court found the claims to be “void of plausible allegations.”³⁷ The state courts dismissed similar claims for lack of standing after considering the evidence.³⁸ Forensic audits by multiple investigators including the Maricopa County Board of Supervisors, independent professional investigators, and a firm hired by Arizona Republicans all came to the same conclusion: that the Dominion voting machines functioned properly. Dominion has brought libel suits against some of its accusers.³⁹

2. Claims that Ballots Were Not Properly Counted.

Plaintiffs in federal and state courts claimed that ballots were improperly counted or improperly *not* counted. Each of these claims was dismissed for lack of evidence or was voluntarily withdrawn.

After a trial in state court, the judge found insufficient evidence to support a claim that election officials were not careful verifying signatures on mail-in ballots: “The evidence does not

³² MARICOPA COUNTY REPORT, *supra* note 24, at 5.

³³ *Id.* at 21.

³⁴ *Id.* at 7.

³⁵ *Id.*

³⁶ *Id.* at 75–76.

³⁷ *Bowyer v. Ducey*, 506 F. Supp. 3d 699, 723 (D. Ariz. 2020), *petition for writ of mandamus denied sub nom.* In re *Bowyer*, 141 S. Ct. 1509 (2021).

³⁸ *Burk v. Ducey*, No. CV-20-0349, 2021 WL 1380620 (Ariz. 2021), *cert. denied*, 141 S. Ct. 2600 (2021).

³⁹ See Alison Durkee, *Court Lets Challenge Against Former Overstock CEO Move Forward—Here’s Where Dominion and Smartmatic’s Defamation Suits Stand Now*, FORBES (Apr. 21, 2022, 1:55 PM), <https://www.forbes.com/sites/alisondurkee/2022/04/21/after-court-lets-fox-news-challenge-move-forward-heres-where-dominion-and-smartmatic-defamation-suits-stand-now-and-who-could-be-next/?sh=6957581c20e2>.

show that these affidavits are fraudulent, or that someone other than the voter signed them. There is no evidence that the manner in which signatures were reviewed was designed to benefit one candidate or another, or that there was any misconduct, impropriety, or violation of Arizona law with respect to the review of mail-in ballots.”⁴⁰ The Arizona Supreme Court affirmed the decision, and the United States Supreme Court denied review.⁴¹ We are not aware of any factual basis for skepticism about those judicial findings.

Another state court dismissed the Trump claim that election officials unlawfully disqualified a large number of ballots cast for Trump on Election Day. When claims that thousands of Arizonans were disenfranchised fell apart during a six-hour hearing, the Trump Campaign narrowed its allegations to a small number of overvotes, which the court found was far too small to have any effect on the outcome of the election.⁴² When plaintiffs present no evidence after being the opportunity, that is tantamount to a demonstration that their claim is unfounded.

Allegations that election officials destroyed or replaced mail-in ballots were dismissed by a federal judge who decried the “cavalier approach” of Trump supporters in bringing claims the court concluded were “wholly unreliable.”⁴³ The state court dismissed a similar claim.⁴⁴ Other plaintiffs in state court, who claimed that 131,092 mail-in ballots had not been counted, voluntarily dismissed their claim.⁴⁵

Finally, a state-court plaintiff voluntarily dismissed her suit that alleged that election officials unlawfully rejected ballots cast for Trump.⁴⁶ A state judge dismissed a subsequent action this plaintiff brought days later, finding no violation after an evidentiary hearing.⁴⁷

3. *Claims that Unsolicited Mail-In Ballots Were Sent to Voters.*

Under Arizona law, a mail-in ballot must be requested by a voter. One lawsuit alleged that 214,526 ballots in Arizona were not requested by the voter identified in the state’s database. The plaintiffs voluntarily dismissed the suit.⁴⁸

⁴⁰ Minute Entry at 7, Ward v. Jackson, No. CV 2020-015285 (Ariz. Super. Ct. Dec. 4, 2020), *aff’d*, No. CV-20-0343-AP/EL, 2020 WL 8617817 (Ariz. Dec. 8, 2020), *cert. denied*, 141 S. Ct. 1381 (2021).

⁴¹ Ward v. Jackson, No. CV-20-0343-AP/EL, 2020 WL 8617817 (Ariz. Dec. 8, 2020), *cert. denied*, 141 S. Ct. 1381 (2021).

⁴² Donald Trump for President, Inc. v. Hobbs, No. CV 2020-014248, 2020 WL 6691465 (Ariz. Super. Ct. Nov. 13, 2020); Maria Polletta, *Trump Lawsuit on Maricopa County Votes Dismissed by Judge as Outcome Wouldn’t Affect Races*, ARIZONA REPUBLIC (Nov. 14, 2020), <https://www.azcentral.com/story/news/politics/elections/2020/11/13/trump-lawsuit-maricopa-county-presidential-votes-dismissed-moot/6277110002/>; Maria Polletta, *Trump Attorney Tells Maricopa County Judge that Vote Challenge Is Not About Fraud or Election Theft*, ARIZONA REPUBLIC (Nov. 13, 2020), <https://www.azcentral.com/story/news/politics/elections/2020/11/12/maricopa-county-judge-hear-trump-team-case-maricopa-county-votes/6260414002>.

⁴³ Bowyer, 506 F. Supp. 3d at 722-23.

⁴⁴ Burk, *supra* note 38.

⁴⁵ Stevenson v. Ducey, No. CV 2020-096490 (Ariz. Super. Ct. Dec. 7, 2020).

⁴⁶ Aguilera v. Fontes, No. CV2020-014083, 2020 WL 6537629 (Ariz. Super. Ct. Nov. 7, 2020).

⁴⁷ Aguilera v. Fontes, No. CV2020-014562 (Ariz. Super. Ct. Nov. 30, 2020), *aff’d sub nom.* Aguilera v. Richer, No. 1 CA-CV 20-0688 EL, 2021 WL 2425918 (Ariz. Ct. App. June 15, 2021).

⁴⁸ Petition for Election Contest, Stevenson v. Ducey, No. CV 2020-096490 (Ariz. Super. Ct. Dec. 4, 2020).

4. *Claims that Voter-Eligibility Requirements Were Not Enforced.*

Trump supporters filed suit in federal court claiming, among other things, that lax enforcement of voter-eligibility requirements resulted in the counting of thousands of ballots that had been unlawfully cast. In support of their allegations, the plaintiffs filed some 300 pages of attachments, but upon examination the court found these were “only impressive for their volume.”⁴⁹ According to the court, “the various affidavits and expert reports are largely based on anonymous witnesses, hearsay, and irrelevant analysis of unrelated elections.”⁵⁰ Another suit making the same claim in state court was voluntarily dismissed.⁵¹

5. *Claims that Ballot Drop Boxes Were Not Fairly Located Throughout the State.*

Plaintiffs voluntarily dismissed claims in state court alleging that Arizona unlawfully located more drop boxes in areas that tend to vote for progressive candidates than it did in traditionally conservative voting areas.⁵² We stress that the claims were voluntarily dismissed. It is a disservice to the public for advocates of a candidate to continue to make claims of electoral improprieties when they have chosen not to test those claims in a court of evidence and law.

6. *Claims that Poll Officials Failed to Carefully Monitor the Election Count.*

The state court found there was not enough evidence to support the claim that election officials allowed fraud to take place because they were too lax in observing the vote count. The Arizona Supreme Court affirmed the decision.⁵³

Summary

There is no evidence of any widespread misfeasance or malfeasance that would have affected the result of the 2020 Presidential Election in Arizona. Nearly all claims of voter fraud have failed, and no one’s vote was counted more than once. The Trump campaign’s claims about the Dominion voting machines were proven false by independent audits. The report from the now-defunct Cyber Ninjas has been debunked, and even it reaffirmed Trump’s loss and found 99 *additional* votes for Biden. All legal claims—about Dominion voting machines, ballot counting, mail-in ballots, voter-eligibility requirements, ballot drop boxes, and conduct by poll officials—failed.

Addenda

Two addenda supporting the conclusions in the six buckets are appended. Addendum A is a table of the federal and state election-related claims filed in Arizona. Addendum B is a

⁴⁹ Bowyer, 506 F. Supp. 3d at 721.

⁵⁰ Bowyer, 506 F. Supp. 3d at 699.

⁵¹ Petition for Voluntary Dismissal, *Stevenson v. Ducey*, No. CV 2020-096490 (Ariz. Super. Ct. Dec. 7, 2020); Petition for Election Contest, *Stevenson v. Ducey*, No. CV 2020-096490 (Ariz. Super. Ct. Dec. 4, 2020).

⁵² Petition for Election Contest, *Stevenson v. Ducey*, No. CV 2020-096490 (Ariz. Super. Ct. Dec. 4, 2020).

⁵³ Minute Entry at 7, *Ward v. Jackson*, No. CV 2020-015285 (Ariz. Super. Ct. Dec. 4, 2020), *aff’d*, 2020 WL 8617817 (Ariz. Dec. 8, 2020), *cert. denied*, 141 S. Ct. 1381 (2021).

comparison of the claims made by Cyber Ninjas, which performed an analysis on the Maricopa County 2020 Presidential Election results and the County's response thereto.

ADDENDUM A
Federal and State Cases Filed in Arizona

Case	Claim	Result
Aguilera v. Fontes, No. CV2020-014083 (Ariz. Super. Ct., Maricopa Cnty.)	Votes cast using Sharpies were unlawfully excluded from election results.	Plaintiff voluntarily dismissed three days after filing suit.
Aguilera v. Fontes et al., No. CV2020-014562 (Ariz. Super. Ct., Maricopa Cnty.)	Ballots were not counted due to deficient voting machines.	State judge dismissed the case after an evidentiary hearing. The Court of Appeals of Arizona affirmed sub nom. <i>Aguilera v. Richer</i> , No. 1 CA-CV 20-0688 EL, 2021 WL 2425918 (Ariz. Ct. App. June 15, 2021).
Arizona Republican Party v. Fontes, No. CV 2020-014553 (Ariz. Super. Ct., Maricopa Cnty.)	The Arizona Republican Party alleged that the Maricopa County Recorder violated a state statute requiring recounts by hand-count sampling by precinct instead of recounts by “vote center.” The Party asked the court to declare the vote-center count unlawful and require a precinct vote.	State judge dismissed the case after holding a hearing on the merits, finding that defendants complied with the election manual and plaintiffs could have brought action months ago when rule made. Plaintiffs did not appeal.
Burk v. Ducey, No. CV 2020-01869 (Ariz. Super. Ct., Pinal Cnty.); No. 20-0349 (Ariz. Supr. Ct.); No. 20-1243 (U.S.)	A voter alleged widespread voter fraud, including: failing to count valid ballots and fraudulently switching Trump votes to Biden ones; counting unlawful absentee and mail-in ballots; committing fraud with Dominion machines; and violating observation rights. The voter asked the court to decertify Arizona’s presidential election results or exclude unlawful absentee and mail-in ballots from the count.	State judge dismissed case after argument for lack of standing as voter did not show they were registered, also finding the complaint was untimely and barred by laches. The Arizona Supreme Court affirmed, and the U.S. Supreme Court denied certiorari.
In re: Bowyer, No. CV-20-02321 (D. Ariz.); No. 20-858 (U.S.)	Voters and electors alleged that defendants fraudulently counted or fabricated hundreds of thousands of illegal ballots, using in part Dominion Voting Systems’ hardware and software in Maricopa County. Plaintiffs asked the	Judge dismissed claims on jurisdictional and merits grounds after hearing argument on a motion to dismiss. The U.S. Supreme Court denied a petition for expedited

Case	Claim	Result
Stevenson v. Ducey, No. CV 2020-096490 (Ariz. Super. Ct., Maricopa Cnty.)	court to decertify the state’s presidential election results. Voters alleged that Arizona election officials did not enforce Arizona residency requirements, permitted “double voting,” and used the Center for Tech and Civic Life to create illegal disparities in ballot and drop-box voting in demographically different areas of Arizona. Plaintiffs sought an injunction to prevent the certification of the election results and asked the governor to certify legislatively selected Presidential Electors.	consideration and ultimately denied certiorari. Plaintiffs voluntarily dismissed four days after filing suit.
Trump v. Hobbs, No. CV 2020-014248 (Ariz. Super. Ct., Maricopa Cnty.)	Trump Campaign, Republican National Committee, and Arizona Republican Party alleged that Maricopa County elections officials violated state and federal law when overriding electronic tabulator errors for ballots rejected by an electronic tabulation device.	State judge dismissed suit from the bench at hearing on the merits; plaintiffs did not appeal.
Ward v. Jackson, No. CV 2020-015285 (Ariz. Super. Ct., Maricopa Cnty.); No. 20-0343 (Ariz. Supr. Ct.); No. 20-809 (U.S.)	Voter alleged that election officials failed to allow observation of signature verification as required by Arizona law; that these officials failed to allow plaintiff a reasonable inspection (sampling) of signatures as well as “duplicated” ballots to compare them to originals; and that the alleged illegal conduct required the court to annul the state’s election.	State judge denied the petition for additional inspection of ballots after holding an evidentiary hearing. The Arizona Supreme Court affirmed, finding plaintiff showed no evidence of fraud. The U.S. Supreme Court denied a petition for expedited consideration and ultimately denied certiorari.

ADDENDUM B

*Cyber Ninjas’ Claims and Maricopa County Responses*⁵⁴

Claim by Cyber Ninjas’ Sept. 24 Report: **Summary of Maricopa County’s Response:**

<p style="text-align: center;">Mail-in Ballots Voted from Prior Addresses</p> <p>23,344 mail-in ballots were cast under voter registration IDs for individuals that may not have received their ballots by mail because they moved, and no individual with an identical last name lived at the address. (p. 6)</p> <p>An additional 2,382 ballots were cast under voter IDs for individuals that moved outside of Maricopa County prior to October 5, 2020. These were discovered by cross-checking the VM55 Final Voted File against a commercially available data source for identity and address verification provided by Melissa called Personator. (p. 14)</p> <p>This same cross-check showed 2,081 instances of a voter casting a ballot in the 2020 election after moving out of the state of Arizona during the 29-day period before the election. (p. 16)</p>	<p>Maricopa County’s review of the Senate data found no evidence of double voting. The County reviewed hundreds of the voter IDs provided in the Cyber Ninjas report’s appendices and found no instances where a voter illegally voted from a prior address. Cyber Ninjas’ conclusions are flawed because they based them on a third-party commercial database that is incomplete compared to the official records and are saying voters should not be allowed to vote if they are not in a commercial database. Cyber Ninjas further failed to realize that voters move and are legally allowed to update their addresses after the voter-registration period and vote in-person or by mail. Ballots are official election mail and cannot be forwarded to another address. Maricopa County relies on the voter’s affirmation of their residential address until it is informed otherwise by the voter or by another trusted resource like the United States Postal Service or the National Change of Address report.</p>
<p style="text-align: center;">More Ballots Returned by Voter than Received</p> <p>For individuals who voted by mail, 9,041 more ballots show as returned in the EV33 Early Voting Returns File than show as sent to that individual in the EV32 Early Voting Sent File. The analysis found, in most of these instances an individual was sent one ballot but received two ballots in total on different dates. (p. 8)</p>	<p>Cyber Ninjas did not realize that these entries were related to voters legally curing questionable signatures or blank envelopes. The County’s preliminary review of voters from the Senate’s data found no evidence of double voting. All early ballots must be accompanied by a signed affidavit envelope. When returned, the envelope is scanned by the Elections Department, which tracks that it was received. If the voter forgets to sign the envelope or the signature is questioned, staff works to contact the voter to “cure” the signature issue. During this process the</p>

⁵⁴ Maricopa Cnty. Elections Dep’t, *Correcting the Record: Maricopa County’s In-Depth Analysis of the Senate Inquiry* (Jan. 2022), <https://recorder.maricopa.gov/justthefacts/pdf/Correcting%20The%20Record%20-%20January%202022%20Report.pdf> (hereinafter MARICOPA COUNTY REPORT); see Maricopa Cnty. Elections Dep’t, *Just The Facts*, <https://recorder.maricopa.gov/justthefacts/> (last visited Jan. 10, 2022).

Claim by Cyber Ninjas’ Sept. 24 Report:

Summary of Maricopa County’s Response:

	<p>envelope is never opened. Once the signature is “cured,” the envelope is scanned again creating a subsequent “received” entry in the EV33 Early Ballot Return File, which accounts for the Cyber Ninjas’ inaccurate allegation. Only envelopes with verified signatures are opened and counted.</p>
<p>Voters that Potentially Voted in Multiple Counties</p> <p>Comparing the Maricopa County VM55 Final Voted File to the equivalent files of the other fourteen Arizona counties resulted in 5,047 voters with the same first, middle, last name and birth year, and total number of votes (10,342) minus maximum potential of unique people (5,047) = 5,295 ballots. (p. 10)</p>	<p>Maricopa County’s spot review of voters identified in Cyber Ninja’s report found no evidence of double voting and found that all voters reviewed were eligible to cast a ballot. The Senate contractor’s analysis used soft or partial matching criteria, which resulted in their false charges of double voting. Their analysis produced false positives because it did not compare all voter information such as full date of birth, middle name, and Social Security and driver’s license numbers. For example, the Cyber Ninjas report included two voters with the same first and last name who live in the same home and were born in the same year. A more thorough review showed they have different middle names, different Social Security and driver’s license numbers, and different signatures.</p>
<p>The Official Result Totals Do Not Match the Equivalent Totals from the Final Voted File (VM55)</p> <p>These discrepancies are significant with a total ballot delta of 11,592 between the official canvass and the VM55 file when considering both the counted and uncounted ballots. The total amount of ballots impacted is 3,432. (p. 12)</p> <p>Further, an analysis of the Maricopa County Official Canvass and the VM55 Final Voted file from November 2020 shows that multiple precincts counted votes in excess of the number of voters who participated in the 2020 General Election. The total amount of ballots impacted is 1,551. (p. 18)</p>	<p>Cyber Ninjas apparently did not know that voters with protected addresses are not included in public files but are included in the official results. To protect the identity of judges, law enforcement officers, and victims of harassment or abuse, Maricopa County is legally required to exclude these voters from all public files, including the VM55 Voted File. This is not unique to Maricopa County. Voting jurisdictions across the nation adhere to this requirement. Maricopa County had over 3,400 protected voters participate in the November 2020 General Election, which refutes these allegations.</p>
<p>More Duplicates than Original Ballots</p>	<p>The accuracy and completeness of Maricopa County’s duplication process has been</p>

Claim by Cyber Ninjas’ Sept. 24 Report:

Summary of Maricopa County’s Response:

Maricopa County reported 27,869 duplicate ballots pertaining to the Presidential Electors, but the audit team counted 29,557 duplicate ballots, and only 26,965 original ballots were sent to duplication. Comparing the total number of original ballots sent to duplication to the total number of duplicate ballots shows that Maricopa County counted 2,592 more duplicate ballots than original ballots sent to duplication. (p. 13)

confirmed by the Arizona Supreme Court (*Ward v. Jackson*). Maricopa County’s detailed records show 27,869 ballots were sent to duplication for the 2020 General Election. During Cyber Ninjas’ hand count, observers noted contractors spilled a box of UOCAVA (Uniformed and Overseas Citizens and Absentee Voting Act) ballots “across the Coliseum floor,” and the large differences between the Senate’s machine count and hand count have shown the faulty hand count processes to be unreliable.

Failure to Follow Basic Cyber Security Practices

Maricopa County failed to follow Department of Homeland Security’s Cybersecurity and Infrastructure Agency (CISA) software and patch management recommendations. (p. 75)

The tabulation equipment is not connected to the internet, is updated following U.S. Election Assistance Commission guidelines, and is configured according to factory settings. The equipment has the latest EAC-approved software and patches installed. The EAC requires that any software and security updates to tabulation equipment must first be authorized by the tabulation vendor and thoroughly tested. The updates listed in the Senate presentation are part of the federally certified “trusted build” that must be installed during set up.

No logs were intentionally deleted. Maricopa County’s tabulation equipment is NOT connected to the internet. The Senate’s contractors misled the public, claiming that website servers REWEB 1601 and REGIS 1202 are connected to the Dominion air-gapped network when they are not. These are website servers for Recorder.Maricopa.Gov and are NOT connected to the air-gapped tabulation equipment. Additionally, while the tabulation equipment makes attempts to reach out to the internet for Microsoft updates, these requests fail because of the air-gapped structure of the equipment. Two federally certified Voting System Test Laboratories independently confirmed that the system is not connected to the internet.

Claim by Cyber Ninjas' Sept. 24 Report:

Summary of Maricopa County's Response:

<p>Failure to Follow Basic Cyber Security Practices</p> <p>Maricopa County failed to follow CISA credential management recommendations. (p. 76)</p>	<p>Maricopa County has a robust set of physical security controls to prevent unauthorized access to the tabulation equipment, including controlled restricted access and security cameras. To access each tabulator, an operator needs a series of two passwords and a security token (key). Passwords used to access the election program and to tabulate ballots are changed prior to each election. Observers are present during tabulation, and all totals are reconciled at the end of each shift.</p>
<p>Failure to Follow Basic Cyber Security Practices</p> <p>Maricopa County failed to follow CISA log management recommendations. (p. 76)</p>	<p>The system automatically logs all actions taken on the equipment. These logs are configured according to factory settings and have a storage limit of twenty megabytes.</p>
<p>Election Management System Database Purge</p> <p>Maricopa purged its Election Management System (EMS) database and logs before the audits performed by Pro V&V and SLI Compliance (p. 63); a large number of files on the EMS Server and HiPro Scanner machines were deleted, including ballot images, election-related databases, result files, and log files (p. 65); Windows security event logs were deleted. (p. 85-88)</p>	<p>Maricopa County archived all 2020 General Election data. Two accuracy tests, a statutorily required hand count, two forensic audits from certified firms, and the Senate's machine count confirmed that the ballot count was accurate. During the election, the county created daily backups of the EMS database and election files. These files have been maintained and safely secured. The Senate never subpoenaed or asked for these backup logs or archives.</p>

*Other Claims Made*⁵⁵

Claim	Summary of County’s Response
<p>“74,000 more mail-in ballots were counted in the November 2020 General Election than were sent.”</p>	<p>“For the November 2020 General Election, Maricopa County had 2,364,426 requests for an early ballot and 1,918,024 early ballots returned either by mail or early in-person voting. The claim that Maricopa County had 74,000 more mail-in ballots than requests appears to be incorrectly calculated by comparing two files that are created during early voting, the EV32 and EV33 files.”</p>
<p>“Maricopa County’s Tabulation System is connected to the internet and was hacked during the General Election.”</p>	<p>“Maricopa County uses an air-gapped system, meaning its tabulation equipment is never connected to the internet and is completely separated from the Maricopa County network. There are no routers connected to the system and there never have been.</p> <p>“Two separate federally certified Voting System Test Laboratories independently confirmed that the system is not connected to the internet. . . . The firms also confirmed that there was not any malicious software or hardware installed on the tabulation equipment.”</p>
<p>“Since the County does not have Dominion’s administrative security token and password, County Election Officials did not configure the tabulation equipment for the 2020 Elections.”</p>	<p>“County Election Officials program and configure the election equipment. County staff have the expertise, passwords, and security tokens needed to program, configure, and prepare the tabulation equipment for an election. The county provided the Senate with the security token and related passwords that were used to configure the November 2020 General Election. Dominion’s administrative token and security password can be used to update the firmware on the tabulators. Any</p>

⁵⁵ See *Just the Facts*, *supra* note 54.

Claim	Summary of County’s Response
<p>“The County does not change its Election Management System passwords.”</p>	<p>changes to the firmware must go through federal and state certification and testing. The county does not need to have access to these security protocols to conduct elections.”</p> <p>“Maricopa County has a robust set of security controls to prevent unauthorized access to its Election Management System (tabulation system). This includes maintaining the tabulation system and central count equipment in a secure ballot tabulation center with access controlled by badge readers. Only staff members who have a direct responsibility are provided access. The tabulation center is monitored by cameras 24 hours a day and seven days a week.</p> <p>“Maricopa County also uses a series of passwords that provide different levels of access to tabulation systems and equipment. To access each tabulator, an operator needs a series of two passwords and a security token (key). Prior to each election, the county changes the password that is used to access the election program and to tabulate ballots.</p> <p>“In addition, ballots are only tabulated when political party observers are present. The political party observers verify that the total number of ballots tabulated on each tabulator at the beginning and ending of each shift. At the end of each day, the totals are reconciled. This process independently validates that ballots are only counted when political party appointees are observing the process.”</p>
<p>“By not updating the tabulation equipment with Windows updates or security patches, the tabulation equipment is at risk.”</p>	<p>“The U.S. Election Assistance Commission’s Testing & Certification Program (Version 2.0, Sections 1.16, 3.42, 3.43) requires that any software and security updates to tabulation equipment must first be authorized by the tabulation vendor and thoroughly tested by certified Voting System Test Laboratories. If Maricopa County were to implement a software or security update without its being tested and approved by the U.S. Elections Assistance Commission, the county’s</p>

Claim	Summary of County’s Response
	<p>tabulation equipment would lose its federal and state certification. This is not only a requirement, but it’s also a best practice prior to implementation to ensure that each update does not pose a risk to the tabulation system.</p> <p>“To ensure security vulnerabilities are not introduced after a tabulation system is certified, the county also maintains an air-gapped network.”</p>
<p>“Maricopa County relaxed signature verification requirements.”</p>	<p>“At no point during the 2020 election cycle did Maricopa County modify the rigorous signature-verification requirements. Any suggestion to the contrary is categorically false. Maricopa County follows rigorous state signature-verification guidelines, and staff receives training prior to elections to ensure compliance. In June 2020, all full-time staff members that perform signature verification in Maricopa County completed a statewide signature-verification certification course offered by the Associated Forensic Laboratory, LLC.”</p>
<p>“Maricopa County’s ballot duplication process allowed illegitimate ballots to be counted.”</p>	<p>“At no point were illegitimate ballots duplicated or inserted into the duplication process. To ensure ballots can be counted for voters that are in the military, temporarily overseas, using a large print or braille ballots, or who return a ballot too damaged to be read by a tabulator, Maricopa County duplicates these ballots. During the duplication process, the Elections Department assigns a matching serial number to both the original and duplicated ballot. This number can be used to compare the original ballot with the duplicated ballot.</p> <p>“The accuracy and completeness of Maricopa County’s duplication process was confirmed in court in <i>Ward v. Jackson</i>, where the plaintiffs randomly sampled 1,626 of the 27,000 duplicated ballots. The Arizona Supreme Court affirmed the lower court ruling, ‘conclude[ing] [<i>sic</i>], unanimously, that . . . the challenge fails to present any</p>

Claim	Summary of County’s Response
	<p>evidence of “misconduct,” “illegal votes” or that the Biden Electors “did not in fact receive the highest number of votes for office,” let alone establish any degree of fraud or a sufficient error rate that would undermine the certainty of the election results.’ (Ariz. Supr. Ct., December 9, 2020)</p> <p>“There may be some instances where the serial number was printed over the timing mark on the original damaged ballot. Since the duplicated ballot and not the original is tabulated, the added serial number overlapping a timing mark does not impact tabulation. When reviewing the randomly sampled duplicated ballots in <i>Ward v. Jackson</i>, the county was able to find and reconcile the serial numbers for all ballots reviewed.”</p>
<p>“VoteSecur paper has a special coating that prevents bleed through and Maricopa County used thinner paper for Election Day Voters.”</p>	<p>“Maricopa County used 80lb VoteSecur paper for every ballot (early, Election Day, provisional, and accessible voting devices) in the November 2020 General Election. According to the manufacturer, the VoteSecur paper that the county used in the November 2020 General Election has no special properties that would prevent bleed through. Because ballots are designed with offset columns, ink that bleeds through the ballot does not impact tabulation.”</p>
<p>“Sharpies caused overvotes on Election Day ballots.”</p>	<p>“Sharpies do not invalidate ballots. Leading up to the 2020 March Presidential Preference Election, the Elections Department did extensive testing on our new tabulation equipment using different types of ink and paper weight. The manufacturer also recommends Sharpies, as they provide the fastest-drying ink, a necessity on Election Day to ensure the ink dries before voters place their ballots into the tabulation equipment. If the ink smudges on tabulators, it can be a major cause of delays at voting locations. Because federal law requires counties to work to avoid long voting lines,</p>

Claim	Summary of County’s Response
	<p>the county says it used the fastest-drying ink available on Election Day. Voters casting an early ballot could use Sharpies or ballpoint pens, since early ballots are signature verified and processed, allowing the ink plenty of time to dry before being tabulated at the Elections Department.</p> <p>“In addition, Maricopa County designs the ballot with offset columns, ensuring ink that bleeds through the ballot does not impact tabulation. People who voted early could use Sharpies or other types of ink.</p> <p>“The Elections Department programs the tabulation equipment to accurately tabulate ballots based on the location of the ovals and the offset columns. This accuracy was verified through logic and accuracy tests, a hand-count audit performed by the political parties, and post-election audits performed by EAC-certified voting-testing laboratories. This is evidenced by the fact that there were only 5,002 overvotes on the presidential contest out of 2,089,563 total ballots cast. This small percentage (0.2%) is smaller than in prior elections that had a presidential contest on the ballot. When reviewing Election Day ballots, there were 233 overvotes out of 167,878 ballots. This represents an even smaller percentage at (0.1%) of the total Election Day ballots.”</p>
<p>Partisan “Private donations from Mark Zuckerberg and others impacted the election results.”</p>	<p>“Maricopa County used four grants in the November 2020 election, all approved in public meetings. Two grants were from non-profits, one was a state-funded grant, and one was CARES funding from the federal government.”</p>
<p>“3,981 voters were registered to vote after the deadline in violation of an Arizona Supreme Court ruling prior to the election.”</p>	<p>“[The county’s] analysis of the voter rolls found no evidence of any ballot counted from a voter registered after the voter-registration deadline. The courts extended the General Election voter-registration deadline to October 15, 2020 at 11:59 p.m. Only voters whose forms were received by the deadline</p>

Claim

Summary of County’s Response

	<p>were eligible to vote in the election. Between the original Oct. 5 deadline and the court-ordered extension, the county received approximately 18,529 voter registration forms. Voter-registration staff completed processing the forms around October 23.</p> <p>“If any of the voter-registration forms were incomplete or deficient, election laws and policies require that the county put the voter on suspension. The county notified these people of the issues and ways to rectify their registration form in order to be officially added to the voter rolls. In these cases, once the county receives the correct information, the voter is officially added to the voter rolls. State law dictates that the voter would be considered registered from the date they submitted their original registration form.</p> <p>“Additionally, there were approximately 7,605 provisional ballots that were cast and ultimately rejected because the voters were not eligible to vote in the election. However, there were 6,198 voters that cast provisional ballots; these were researched and found to meet the legal eligibility requirements, including that those voters were registered to vote before the registration deadline. Those ballots were counted as part of the official returns for the November General Election.”</p>
<p>“11,386 November General Election voters were illegally allowed to vote because they were listed on the December 2, 2020 voter file but not listed on the November 7, 2020 voter file.”</p>	<p>“The county’s review of the Nov. 7 and Dec. 2 files from 2020 found that every voter on the Dec. 2 voter file who was legally given credit for voting during the November 2020 General Election was registered by the October 15 deadline. . . . Arizona law allows provisional ballots to be processed up to ten business days after the election. The Nov. 7 file would not have included all provisional-ballot-processing results.</p> <p>“It is common for a voter who was previously suspended or in an inactive status to vote provisionally and cure their registration status</p>

Claim	Summary of County's Response
	and be added back to the official active voter rolls. Additionally, voters who cast a provisional ballot that is rejected often complete new voter registrations and appear on the voter rolls in subsequent months.”
<p>“Maricopa County committed fraud because 18,000 people voted on Election Day but were subsequently removed from the voter rolls.”</p>	<p>“Maricopa County has over 2.6 million registered voters, and it is not unusual for there to be tens of thousands of changes to the voter rolls each month. . . . There were 13,320 voters removed from the voter rolls between November 3, 2020, and January 2, 2021. The majority (7,916) of these removals were because a voter moved out of Maricopa County or passed away during this period. The remainder (5,404) were for situations such as felony convictions, adjudicated as incapacitated, or the request of the voter to be removed from the rolls.”</p>

Georgia

Donald Trump and his supporters brought eleven cases with 38 counts challenging the results showing he lost Georgia. They were not successful in any of those actions. None of the numerous forums that reviewed Trump's allegations sustained Trump's charges of fraud, irregularities, or procedural deficiencies sufficient to overturn the outcome of the 2020 Presidential Election.⁵⁶ Georgia Secretary of State Brad Raffensperger, a conservative Republican, conducted a full manual recount of the five million ballots cast, confirming Biden's victory.⁵⁷ At Trump's request, election officials then conducted a post-certification recount, which also confirmed Biden's victory.⁵⁸ Secretary Raffensperger, with the assistance of the Georgia Bureau of Investigation, evaluated and rejected numerous claims of fraud.⁵⁹

President Biden carried Georgia by a margin of 11,779 votes out of five million votes cast in the 2020 Presidential Election, according to Georgia's official certification of the vote.⁶⁰ Biden received 49.5% of the vote. Trump received 49.3%.⁶¹ In 2016, Trump carried Georgia by a margin of 211,141 votes out of 4.1 million votes cast.⁶² Trump received 50.4% of the vote in 2016, while Clinton received 45.3%.⁶³

Biden was the first Democratic presidential candidate to win Georgia since 1992.⁶⁴ Biden capitalized on grassroots organizing, a rapidly diversifying electorate, significantly increased turnout, and suburbs growing in population and becoming inhospitable to 2020 Republican candidates.⁶⁵ Democrats have made slow and steady gains in Georgia, with candidates focusing

⁵⁶ David Wickert & Greg Bluestein, *Inside the Campaign to Undermine Georgia's Election*, https://www.ajc.com/politics/election/georgia-2020-election-what-happened/?_gl=1*pekhqg*_ga*NDg1NTU1NzI2LjE2NDIwOTA0MTk.*_ga_6VR7Y4BTY5*MTY0NTYzMjEyOS41LjEuMTY0NTYzMzA3My4w (last visited Jun. 9, 2022).

⁵⁷ *Wood v. Raffensperger*, 501 F. Supp. 3d 1310, 1319-20 (N.D. Ga. 2020), *aff'd*, 981 F.3d 1307 (11th Cir. 2020), *cert. denied*, 141 S. Ct. 1379 (2021).

⁵⁸ Alison Durkee, *Georgia Recertifies Biden's Win After Trump-Ordered Recount Fails Again*, FORBES (Dec. 7, 2020) [hereinafter Durkee, *Georgia Recertifies*], <https://www.forbes.com/sites/alisondurkee/2020/12/07/georgia-to-recertify-biden-win-election-results-after-trump-ordered-recount-fails-again/?sh=1fa6c4af679a>.

⁵⁹ Georgia Sec'y of State Investigations Div., *Georgia Sec'y of State/Georgia Bureau of Investigation ABM Signature Audit Rep.* (Dec. 29, 2020), <https://ia601803.us.archive.org/4/items/cobb-county-abm-audit-report-20201229/Cobb%20County%20ABM%20Audit%20Report%2020201229.pdf>; David Wickert, *GBI to Aid Georgia Voting Fraud Investigations*, THE ATLANTA JOURNAL-CONSTITUTION (Dec. 4, 2020), <https://www.ajc.com/politics/election/gbi-to-aid-georgia-voting-fraud-investigations/JX77G2JGEFFK3F3MZGKT6VUDQ/>; Mark Niesse, *Investigation Finds Less Double Voting in Georgia than Alleged*, THE ATLANTA JOURNAL-CONSTITUTION (Feb. 8, 2022), <https://www.ajc.com/politics/investigation-finds-far-less-double-voting-in-georgia-than-alleged/WAOLVUT7B5HYFI7KX5E6OZW75A/>.

⁶⁰ Georgia Election Results 2020, POLITICO (last updated Jan. 6, 2021), <https://www.politico.com/2020-election/results/georgia/>; Georgia Sec'y of State, *Number of Absentee Ballots Rejected for Signature Issues in the 2020 Election Increased 350% from 2018*, <https://sos.ga.gov/news/number-absentee-ballots-rejected-signature-issues-2020-election-increased-350-2018> (last visited Dec. 14, 2021).

⁶¹ *Georgia Election Results 2020*, POLITICO (last updated Jan. 6, 2021), <https://www.politico.com/2020-election/results/georgia/>.

⁶² *Georgia Election Results*, N.Y. TIMES (Aug. 1, 2017), <https://www.nytimes.com/elections/2016/results/georgia>.

⁶³ *Id.*

⁶⁴ Gregory Krieg, *Joe Biden Becomes First Democrat in 28 Years to Win Georgia*, CNN (Nov. 13, 2020), <https://www.cnn.com/2020/11/13/politics/joe-biden-wins-georgia/index.html>.

⁶⁵ *Id.*

on bringing out Democratic voters who did not vote in previous election cycles, thus closing the gap with Republicans in recent elections.⁶⁶ In addition to bringing out Democratic voters, Biden also succeeded among swing and suburban voters.⁶⁷

Trump election challengers emerged soon after election day. Each has been refuted.

- Matthew Braynard, president of Looking Ahead America, provided declarations in several lawsuits and issued reports analyzing election results. In one lawsuit, Braynard wrote (among other claims of voter fraud) that more than 20,000 absentee or early-voter ballots were cast by non-citizens of Georgia.⁶⁸ More recently, Braynard’s organization issued a “Georgia Report,” claiming that at least 12,547 votes were illegally cast in the state.⁶⁹ While making the broad allegations, Braynard did not offer the specific names to support the claims and were debunked.
- Braynard’s “Georgia Report” was discredited as lacking merit and being based on speculation, according to individuals from bipartisan election-integrity organizations.⁷⁰ Three political science professors, from Stanford University and the University of California Los Angeles, found that the report was “fatally flawed and unreliable”—even after it was revised in response to the professors’ initial critiques.⁷¹

Harvard professor and voting-statistics expert Stephen Ansolabehere also evaluated Braynard’s claim that 20,000 non-citizens voted; he found that Braynard “offer[ed] no conclusions based on scientifically accepted standards of evidence” and that parts of the report were “riddled with errors and biases that render it invalid for purposes of drawing inferences about the quantities at issue.”⁷²

⁶⁶ *Id.*

⁶⁷ David Weigel & Lauren Tierney, *How Votes Shifted in the Six Political States of Georgia*, WASH. POST (Dec. 8, 2020), <https://www.washingtonpost.com/graphics/2020/politics/georgia-senate-political-geography/>; Nate Cohn, Matthew Conlen & Charlie Smart, *Detailed Turnout Data Shows How Georgia Turned Blue*, N.Y. TIMES (Nov. 17, 2020), <https://www.nytimes.com/interactive/2020/11/17/upshot/georgia-precinct-shift-suburbs.html>; Adam Van Brimmer, *“The Place Where We Put This Country Back on Track”: How Joe Biden Turned Georgia Purple*, USA TODAY (Nov. 6, 2020), <https://www.usatoday.com/story/news/politics/elections/2020/11/06/biden-georgia-election-battleground-swing-state-purple/6192813002/>.

⁶⁸ See Expert Rep. of Matthew Braynard (Exhibit 1 to Notice of Filing), *Pearson v. Kemp*, No. 1:20-cv-4809-TCB (N.D. Ga. Nov. 20, 2020), ECF No. 45.1, available at <https://electioncases.osu.edu/wp-content/uploads/2020/11/Pearson-v-Kemp-Doc45.1.pdf>.

⁶⁹ Justin Grimmer et al., *Evaluating Look Ahead America’s “The Georgia Report” on Illegal, Out-of-State Voting in the 2020 Election*, HOOVER (Aug. 11, 2021), <https://www.hoover.org/research/evaluating-look-ahead-americas-georgia-report-illegal-out-state-voting-2020-election>; Tom Kertscher, *No Proof for Another Pro-Trump Claim of Thousands of Illegal Votes in Georgia*, POLITIFACT (Apr. 28, 2021), <https://www.politifact.com/factchecks/2021/apr/28/blog-posting/no-proof-another-pro-trump-claim-thousands-illegal/>.

⁷⁰ Kertscher, *supra* note 69.

⁷¹ Grimmer et al., *supra* note 69.

⁷² Noah Y. Kim, *Fact-Check: Did 4,925 People Improperly Vote in Georgia?*, POLITIFACT (Jan. 6, 2021), <https://www.statesman.com/story/news/politics/politifact/2021/01/06/no-evidence-4-925-voters-out-state-voted-georgia-presidential-election/6565409002/>.

- Trump claimed that some 5,000 ballots in Georgia were cast by deceased voters, but the State Election Board found just four, all of which had been returned by relatives; these were referred to the state attorney general for investigation.⁷³

The Associated Press reviewed all claims of voter fraud and found no widespread fraud; there were 64 cases of potential fraud (representing 0.54% of the margin of Biden’s victory), and 31 were the result of administrative error or other mistake.⁷⁴

More recently, Trump claimed that ballots were sold in Georgia for \$10 each.⁷⁵ The claim stems from an allegation made by a group, True the Vote, which has declined to produce supporting evidence.⁷⁶ A similar allegation that the group made in September 2021 was reviewed by the Georgia Bureau of Investigation, which determined that an investigation was not justified because of the lack of evidence supporting the allegation.⁷⁷

Legal challenges fall into six categories.

1. Counting Unlawful Ballots, Including by Deceased, Non-Resident, and other Ineligible Voters.

Trump and his supporters alleged that election officials counted ballots cast by ineligible voters, such as non-residents and deceased individuals, double-counted ballots, and counted fraudulent ballots.⁷⁸ They alleged that surveillance video at Atlanta’s State Farm Arena showed officials taking ballots from suitcases under tables and counting them.⁷⁹ Each of the Trump challenges failed and has been refuted.

Election officials counted each ballot three times, and each count showed a Biden victory consistent with the Election Day tabulation. In addition to being counted on Election Day, they were counted during the statewide risk-limiting audit (hand recount) and during a post-certification recount.⁸⁰ The statewide audit confirmed Biden’s victory, though it slightly narrowed the election results; the variance in total vote count between the machine and hand

⁷³ Mark Niese, *Alleged “Dead” Georgia Voters Found Alive and Well After 2020 Election*, ATLANTA-JOURNAL CONSTITUTION (Dec. 27, 2021), <https://www.ajc.com/politics/alleged-dead-georgia-voters-found-alive-and-well-after-2020-election/DAL3VY7NFNHL5OREMHD7QECOCA/>.

⁷⁴ Cassidy, *supra* note 19; *State Details of AP’s Review of Potential Voter Fraud Cases*, ASSOCIATED PRESS (Dec. 14, 2021), <https://apnews.com/article/joe-biden-arizona-donald-trump-voter-registration-tucson-c64bba90b8c074bf8bdfd2c751b6b0f2>.

⁷⁵ McKenzie Sadeghi, *Fact Check: Georgia Investigation into Alleged Ballot Harvesting is Not Evidence of Election Fraud*, USA TODAY (Jan. 7, 2022), <https://www.usatoday.com/story/news/factcheck/2022/01/07/fact-check-trump-makes-misleading-claim-georgia-2020-election/9128609002/>.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Complaint at 1, *Boland v. Raffensperger*, No. 2020CV343018, 2020 Ga. Super. LEXIS 1897 (Fulton Cnty. Super. Ct. Dec. 8, 2020); Complaint at 20, 25, *Trump v. Raffensperger*, No. 2020CV343255 (Fulton Cnty. Super. Ct. Dec. 4, 2020); Order Granting Motion to Dismiss at 2, *Favorito v. Fulton County*, No. 2020CV343938 (Fulton Cnty. Super. Ct. Oct. 13, 2021).

⁷⁹ Justin Gray, *Georgia Election Officials Show Frame-by-Frame What Happened in Fulton Surveillance Video*, WSB-TV (Dec. 4, 2020, 8:23 PM), <https://www.wsbtv.com/news/politics/georgia-election-officials-show-frame-by-frame-what-really-happened-fulton-surveillance-video/T5M3PYIBYFHFOD3CIB2ULDVDE/>.

⁸⁰ Ga. Sec’y State, *2020 General Election Risk-Limiting Audit*, <https://sos.ga.gov/page/2020-general-election-risk-limiting-audit> (last visited June 6, 2022); Durkee, *Georgia Recertifies*, *supra* note 58.

recounts was 0.1053%, far less than the 1.0 to 1.5% variance found in past Georgia elections.⁸¹ No county showed a variance in margin greater than 0.73%, and 103 of the 159 counties showed a margin variance of less than 0.05%.⁸² The third count, which followed Georgia’s certification of its election results, showed that Biden won the election by 11,700 votes.⁸³

A state judge rejected claims of ineligible voters as “rest[ing] on speculation rather than duly pled facts.”⁸⁴ The Georgia Supreme Court denied the plaintiff’s request for an emergency appeal.⁸⁵ The state’s highest court also declined to expedite a case brought in Fulton County Superior Court alleging a host of fraudulent activities by election officials, including counting ballots cast by ineligible voters.⁸⁶

One lawsuit alleging nefarious and improper ballot-counting activity in Fulton County was dismissed for failure to allege a particularized injury, after state officials reported that an investigation found no evidence to support the claims.⁸⁷

2. *Absentee-Ballot Procedures.*

Several challengers alleged that Secretary Raffensperger unconstitutionally required three clerks, rather than one, to reject an absentee ballot based on its signature.⁸⁸ The federal court rejected this claim.⁸⁹ The judge noted that the procedures did not impermissibly alter the law, but provided an “additional safeguard to ensure election security,” and that, if anything, the Secretary’s action in requiring additional review “sought to achieve consistency among the county election officials in Georgia” in furtherance of the claimant’s “stated goals of conducting free, fair, and transparent public elections.”⁹⁰ The state court dismissed a similar claim.⁹¹ The judge explained that the plaintiff’s claims “do not support an allegation of impropriety or a conclusion that sufficient illegal votes were cast to change or place in doubt the result of the election.”⁹² The processing rules for absentee ballots were applied “in a wholly uniform manner

⁸¹ Ga. Sec’y State, *Risk-Limiting Audit Report* (2020), https://sos.ga.gov/admin/uploads/11.19_20_Risk_Limiting_Audit_Report_Memo_1.pdf.

⁸² *Id.*

⁸³ Durkee, *Georgia Recertifies*, *supra* note 58.

⁸⁴ Boland v. Raffensperger, No. 2020CV343018, 2020 Ga. Super. LEXIS 1897, at *6 (Ga. Super. Ct. Fulton Cnty. Dec. 8, 2020).

⁸⁵ Boland v. Raffensperger, No. S21M0565 (Ga. Dec. 14, 2020).

⁸⁶ Trump v. Raffensperger, No. S21M0561 (Ga. Dec. 12, 2020).

⁸⁷ Order Granting Motion to Dismiss at 11, *Favorito v. Fulton County*, No. 2020CV343938 (Fulton Cnty. Super. Ct. Oct. 13, 2021); Stephen Fowler, *Judge Dismisses VoterGA’s Fulton County Ballot Inspection Lawsuit*, GPB (Oct. 13, 2021, 9:43 AM), <https://www.gpb.org/news/2021/10/13/judge-dismisses-votergas-fulton-county-ballot-inspection-lawsuit>.

⁸⁸ Wood v. Raffensperger, 501 F. Supp. 3d 1310, 1326 (N.D. Ga. 2020), *aff’d*, 981 F.3d 1307 (11th Cir. 2020), *cert. denied*, 141 S. Ct. 1045 (2021).

⁸⁹ *Id.* at 1328.

⁹⁰ *Id.*

⁹¹ Boland v. Raffensperger, No. 2020CV343018, 2020 Ga. Super. LEXIS 1897 (Ga. Super. Ct. Dec. 8, 2020).

⁹² *Id.* at *6.

across the entire state. In other words, no voter—including [the plaintiff]—was treated any differently than any other voter.”⁹³

Courts also dismissed claims alleging that absentee ballots were opened before Election Day⁹⁴ and that ballot drop boxes were unlawfully installed.⁹⁵ A federal court found the claims of fraud to be “far too conclusive and speculative.”⁹⁶ Plaintiffs voluntarily dismissed a suit making similar allegations regarding absentee ballots, as well as claims that Secretary Raffensperger violated state law by sending unsolicited absentee-ballot applications to all Georgia voters, after both the state Superior Court and the Georgia Supreme Court declined to give the case emergency consideration.⁹⁷

Finally, after holding an evidentiary hearing, a state judge rejected claims that Chatham County officials accepted late absentee ballots, finding no evidence of fraud or unlawful activity.⁹⁸

3. *Dominion Voting Machine Fraud.*

Plaintiffs claimed that Dominion voting machines were fraudulently manipulated to help Biden.⁹⁹ Allegations included computerized ballot-stuffing, vote manipulation, unprotected audit logs, and security vulnerabilities allowing remote, unauthorized access into Dominion voting software.¹⁰⁰ Each court rejected these claims.

One federal court rejected these allegations and a request for a temporary restraining order for lack of standing.¹⁰¹ Plaintiff’s allegations, and his claims that Dominion was “founded by foreign oligarchs and dictators . . . to make sure [that] Venezuelan dictator Hugo Chavez never lost another election,” were “astonishingly speculative,” the court said.¹⁰² Appellate courts likewise affirmed or declined to review.¹⁰³

⁹³ Wood v. Raffensperger, 501 F. Supp. 3d 1310, 1326 (N.D. Ga.), *aff’d*, 981 F.3d 1307 (11th Cir. 2020), *cert. denied*, 141 S. Ct. 1045 (2021).

⁹⁴ Complaint at 11, Wood v. Raffensperger, No. 1:20-cv-5155, 2020 WL 7706833 (N.D. Ga. Dec. 28, 2020), *aff’d*, No. 20-14813, 2021 WL 3440690 (11th Cir. Aug. 6, 2021), *cert. denied*, 142 S. Ct. 1211 (2022).

⁹⁵ *Id.*

⁹⁶ Wood v. Raffensperger, No. 1:20-CV-5155-TCB, 2020 WL 7706833, at *4 (N.D. Ga. Dec. 28, 2020), *aff’d*, No. 20-14813, 2021 WL 3440690 (11th Cir. Aug. 6, 2021), *cert. denied*, 142 S. Ct. 1211 (2022).

⁹⁷ Response to Plaintiffs’ Notice of Filing Voluntary Dismissal, Trump v. Raffensperger, No. 2020CV343255 (Ga. Super. Ct. Jan. 7, 2021); Ga. Sec’y of State, *Trump Legal Team Folds* (Jan. 7, 2021), <https://sos.ga.gov/news/trump-legal-team-folds>.

⁹⁸ *In re* Enforcement of Election Laws and Securing Ballots Cast or Received After 7:00 p.m. on November 3, 2020, No. SPCV20-00982, 2020 WL 6701610 (Ga. Super. Ct. Nov. 5, 2020).

⁹⁹ Complaint at 3–4, ¶¶ 2, 4, Pearson v. Kemp, No. 1:20-cv-4809-TCB, 2020 WL 7040582 (N.D. Ga. Nov. 29, 2020), *appeal dismissed*, No. 20-14480, 831 F. App’x 467 (11th Cir. Dec. 4, 2020), *pet. for writ of mandamus dismissed sub nom.* Pearson v. Georgia, No. 20-816, 2021 WL 1081233 (U.S. Feb. 11, 2021).

¹⁰⁰ *Id.* at 3–4, ¶¶ 5, 8.

¹⁰¹ Wood v. Raffensperger, No. 1:20-CV-5155-TCB, 2020 WL 7706833, at *5 (N.D. Ga. Dec. 28, 2020), *aff’d*, No. 20-14813, 2021 WL 3440690 (11th Cir. Aug. 6, 2021).

¹⁰² *Id.*

¹⁰³ Pearson v. Kemp, No. 1:20-cv-4809-TCB, 2020 WL 7040582 (N.D. Ga. Nov. 29, 2020), *appeal dismissed*, No. 20-14480, 831 F. App’x 467 (11th Cir. Dec. 4, 2020), *pet. for writ of mandamus dismissed sub nom.* Pearson v.

4. *Improper Election Result Certification.*

Trump supporters alleged that Governor Brian Kemp and Secretary Raffensperger improperly certified the election results without resolving pending election contests as required by Georgia law.¹⁰⁴ A federal judge faulted the “dilatatory actions” by the Trump plaintiffs, noting that they were provided adequate opportunity to be heard in state court.¹⁰⁵

5. *Observer Access.*

Challengers alleged that Georgia officials failed to provide meaningful access to observe and monitor ballot counting and recounts. Specifically, the Trump supporters alleged that Georgia officials failed to provide access to observers during the initial counting of absentee ballots and during the subsequent risk-limiting audit (statewide hand recount). The federal court found no credible evidence of fraud or impropriety: the plaintiff “present[ed] no authority, and the Court finds none, providing for a right to unrestrained observation or monitoring of vote counting, recounting, or auditing,” and the plaintiff’s purported evidence of statewide impropriety was mere speculation.¹⁰⁶

Plaintiffs voluntarily dismissed another lawsuit alleging inadequate observer access after a federal judge denied their petition for injunctive relief.¹⁰⁷

6. *Third Party Funds.*

Trump supporters alleged that Fulton County officials violated state law by accepting a donation for election administration from Mark Zuckerberg through a private nonprofit organization called the Center for Tech and Civic Life. The complaint alleged this donation caused a private–public entanglement that impacted election results.¹⁰⁸ A state court judge dismissed the case on procedural grounds.¹⁰⁹ The plaintiff did not appeal.

Summary

There was no widespread voter fraud in Georgia. The Associated Press identified just 64 cases of *potential* fraud, which represents one-half of one percent of Biden’s victory, far too few

Georgia, No. 20-816, 2021 WL 1081233 (U.S. Feb. 11, 2021); Wood v. Raffensperger, No. 1:20-CV-5155-TCB, 2020 WL 7706833 (N.D. Ga. Dec. 28, 2020), *aff’d*, No. 20-14813, 2021 WL 3440690 (11th Cir. Aug. 6, 2021) (affirming district court), *In re* Wood, No. 20-887, 141 S. Ct. 1529 (U.S. Mar. 8, 2021) (denying petition for writ of mandamus).

¹⁰⁴ Complaint at 18, ¶ 40, Trump v. Kemp, 511 F. Supp. 3d 1325, 1329 (N.D. Ga. 2020).

¹⁰⁵ Trump v. Kemp, 511 F. Supp. 3d 1325, 1332 (N.D. Ga. 2021).

¹⁰⁶ Wood v. Raffensperger, 501 F. Supp. 3d 1310, 1317, 1319–20, 1330 (N.D. Ga.), *aff’d*, 981 F.3d 1307 (11th Cir. 2020), *cert. denied*, 141 S. Ct. 1379 (2021).

¹⁰⁷ Trump v. Kemp, 511 F. Supp. 3d 1325 (N.D. Ga. 2020).

¹⁰⁸ Pet. for Election Contest at 4, 12, ¶ 26, Wood v. Raffensperger, No. 2020CV342959 (Ga. Super. Ct. Fulton Cnty. Dec. 8, 2020).

¹⁰⁹ Final Order, Wood v. Raffensperger, No. 2020CV342959 (Ga. Super. Ct. Fulton Cnty. Dec. 8, 2020).

to change the result.¹¹⁰ Allegations from Trump or his campaign were all debunked by investigating officials and the courts. These claims were founded on speculation, not facts.

Addendum

A list of state and federal cases filed in Georgia follows.

ADDENDUM

Case	Claim	Result
In re: Enforcement of Election Laws and Securing Ballots Cast or Received After 7:00 p.m. on November 3, 2020, SPCV20-00982 (Ga. Super. Ct.)	Georgia Republican Party and Trump campaign alleged that the Chatham County Board of Elections counted absentee ballots received after 7:00 p.m. on Election Day in violation of Georgia law.	State judge held evidentiary hearing and dismissed petition; found no evidence of late ballots or unlawful action by the Board.
Brooks v. Mahoney, III, No. 4:20-cv-00281 (S.D. Ga.)	Voters alleged that defendants counted illegal ballots such as double votes, votes by ineligible voters, votes by phantom (fictitious) voters, felon votes (where illegal), and non-citizen votes; voters also made ballot-harvesting allegations.	Plaintiffs voluntarily dismissed the suit five days after filing suit.
Wood v. Raffensperger, No. 1:20-cv-04651 (N.D. Ga.); 20-14418 (11th Cir.); 20-799 (Supr. Ct.)	Plaintiff alleged that Secretary of State's March 2020 settlement with the state Democratic Party violated state law regarding defective ballots.	Judge dismissed the case for lack of standing. The 11th Circuit affirmed, and the U.S. Supreme Court denied motion to expedite consideration and later denied certiorari.
In re: Pearson, No. 1:20-cv-04809 (N.D. Ga.); 20-14480 (11th Cir.);	Voters alleged that statewide ballot fraud and other election-day issues illegally manipulated the election in Joe Biden's favor.	Judge entered a limited temporary restraining order, held a hearing, and dismissed the case. The 11th Circuit denied the petition to file an

¹¹⁰ Cassidy, *supra* note 19.

Case	Claim	Result
20-816 (U.S.)		interlocutory appeal. The U.S. Supreme Court denied Plaintiffs' petition for expedited consideration and later denied certiorari.
Wood v. Raffensperger, 2020CV342959 (Fulton Cnty. Super. Ct.)	Voter alleged that the Secretary of State violated state and federal law by using funds received from Facebook CEO Mark Zuckerberg's Center for Tech and Civic Life, negotiating an unlawful settlement agreement regarding absentee ballots, and not enforcing state law residency requirements.	State judge dismissed the case on procedural grounds. Plaintiff did not appeal.
Boland v. Raffensperger, 2020CV343018 (Fulton Cnty. Super. Ct.); S21M0565 (Ga. Supr. Ct.)	Voter alleged that the Secretary of State violated state law by allowing non-residents to vote and failing to properly verify voter signatures.	State judge dismissed the case on procedural grounds. The Georgia Supreme Court denied petition for emergency direct appeal.
Trump v. Raffensperger, 2020CV343255 (Fulton Cnty. Super. Ct.), S21M0561 (Ga. Supr. Ct.)	Trump campaign alleged violations of state law by not adequately matching voter signatures, failing to establish uniform absentee-ballot counting procedures, and permitting widespread irregularities and fraud. Plaintiffs sought to prevent certification of the results and requested an immediate audit of signatures on absentee ballot applications and ballots.	State judge dismissed the case for lack of jurisdiction. The Georgia Supreme Court denied review.
Still v. Raffensperger, 2020CV343711 (Fulton Cnty. Super. Ct.)	Voter and presidential Elector alleged that the respondents violated state constitution and election statutes by certifying election results with discrepancies between election day results and recounts.	Voluntary dismissal.
Wood v. Raffensperger, No. 1:20-cv-05155 (N.D. Ga.); No. 20-887 (U.S.)	Plaintiff alleged that the Secretary of State committed a host of election fouls by violating Georgia's statutory mail-in absentee-ballot signature verification procedure and the prohibition on opening absentee ballots before Election Day; unlawfully installed unauthorized ballot drop boxes; and used unreliable and compromised Dominion Voting Systems	Judge denied the motion for a temporary restraining order, holding that plaintiff lacked standing. The U.S. Supreme Court denied the petition for mandamus.

Case	Claim	Result
Trump v. Kemp, No. 1:20-cv-05310 (N.D. Ga.)	software. Plaintiff also sought to enjoin Georgia’s senatorial runoff election. President Trump alleged that Governor and Secretary of State violated the U.S. Constitution by deviating from the “manner” the Georgia legislature established for choosing Presidential Electors and asked the court to issue an injunction directing the defendants to decertify the election results.	Judge denied the motion for expedited declaratory and injunctive relief. Plaintiff then moved for voluntary dismissal.
Favorito v. Cooney, No. 2020CV343938 (Fulton Cnty. Super. Ct.)	Fulton County tabulation observer and several hand-count auditors alleged a range of fraud at State Farm Arena, including counting fraudulent ballots.	State judge unsealed Fulton County ballots and thereafter dismissed case as to County; state officials remain and case is pending.

Michigan

Donald Trump's supporters brought nine cases with 31 counts challenging the results in Michigan. They were not successful in any of those actions. A Michigan State Senate committee chaired by a Republican Senator examined the charges of fraud and irregularities made by Trump and his supporters and found none of them meritorious.¹¹¹ Michigan's Office of the Auditor General, whose head was appointed by the Republican-led legislature, issued a report March 4, 2022, rebutting a principal charge of Trump and his supporters: that a significant number of fraudulent votes were cast on behalf of dead people in the state's 2020 Presidential Election.¹¹²

According to Michigan election officials who certified the results, President Biden carried Michigan by a margin of 154,188 votes out of 5.5 million cast.¹¹³ Biden received 50.6% of the vote and Trump received 47.8%.¹¹⁴ In 2016, Trump carried Michigan by a margin of 10,700 votes out of roughly five million cast.¹¹⁵ Trump received 47.3% of the vote.¹¹⁶ Clinton received 47.0%.¹¹⁷

Biden's victory is attributed to gains in suburban counties, especially those in Detroit suburbs, as well as strength in urban cores and small metropolitan areas.¹¹⁸ Trump increased his share of votes in 63 of the state's 83 counties, winning 73 counties; but Trump won fewer counties than the 75 he took in 2016, and the counties he did win are sparse in population.¹¹⁹ In addition, support for third-party candidates dwindled from 5% of the vote in 2016 to just 1.5% in 2020.¹²⁰

Various forums reviewed claims of fraudulent and otherwise unlawful election activity made by former president Trump and his supporters. The Republican members of the state's Senate

¹¹¹ Clara Hendrickson & Dave Boucher, *Michigan Republican-Led Investigation Rejects Trump's Claim That Nov. 3 Election Was Stolen* (June 24, 2021), <https://www.freep.com/story/news/politics/elections/2021/06/23/michigan-senate-investigation-election-trump/5035244001/>.

¹¹² Craig Mauger, *New Michigan Audit Debunks Dead Voter Theory in 2020 Election* (Mar. 4, 2022), <https://www.detroitnews.com/story/news/politics/2022/03/04/audit-debunks-dead-voter-theory-michigan-2020-election/9373387002/>.

¹¹³ *Michigan Election Results 2020*, POLITICO (last updated Jan. 6, 2021), <https://www.politico.com/2020-election/results/michigan/>; Michigan Bureau of Elections, *Audits of the November 3, 2020 General Election 1* (2021), https://www.michigan.gov/documents/sos/BOE_2020_Post_Election_Audit_Report_04_21_21_723005_7.pdf.

¹¹⁴ *Michigan Election Results 2020*, *supra* note 113.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ William H. Frey, *Biden's Victory Came From the Suburbs*, BROOKINGS (Nov. 13, 2020), <https://www.brookings.edu/research/bidens-victory-came-from-the-suburbs/>; David Eggert, *Biden Won Michigan with Surge in Cities, Suburbs*, ASSOCIATED PRESS (Nov. 7, 2020), <https://apnews.com/article/election-2020-joe-biden-donald-trump-hillary-clinton-michigan-f667cdcbfb02ba8f5b80553d3e1153f8>; Tim Alberta, *Three Reasons Biden Flipped the Midwest*, POLITICO (Nov. 4, 2020), <https://www.politico.com/news/magazine/2020/11/04/three-reasons-biden-flipped-the-midwest-434114>.

¹¹⁹ Mike Wilkinson, *How Biden Won, Even as Much of Michigan Went for Trump; 5 Election Takeaways*, BRIDGE MICHIGAN (Nov. 5, 2020), <https://www.bridgemi.com/michigan-government/how-biden-won-even-much-michigan-went-trump-5-election-takeaways>.

¹²⁰ *Id.*

Oversight Committee conducted their own thorough investigation of Trump’s election-related allegations, reaching the following conclusions:¹²¹

- *Alleged fraud at the TCF Center.* There was no evidence of fraud at Detroit’s TCF Center. The Committee heard testimony regarding signature-matching allegations,¹²² allegedly fraudulent voting machines,¹²³ and unlawful “ballot dumps,”¹²⁴ and found no proof that “something illegal actually occurred” or that “ballots were fraudulent.”¹²⁵
- *Voter fraud.* There was no evidence of voter fraud. The Committee investigated claims that more than 200 individuals in Wayne County were believed to be deceased and cast a ballot.¹²⁶ The Committee found only two instances in which the individual appeared to be deceased but voted; one of which was a clerical error (a deceased father had the same name as his son) and one was a vote cast by a 92-year-old absentee voter who died four days before election day.¹²⁷ The Committee found no other valid claims of deceased voters.¹²⁸
- *Ballots cast by ineligible voters.* The March 2022 Michigan Auditor General’s Report found that 1,616 votes, or 0.03% of the total ballots, were cast by people who were deceased as of Election Day and that the majority of these had been cast by people alive when they sent in their ballots ahead of the election but passed away before Election Day.¹²⁹ The report also found that 99.99% of the voters examined were within acceptable age parameters and 99.99% of the votes cast were not identified as a duplicate vote, far from the margin needed to show that the final results would have given Trump the state.¹³⁰
- *Ballot-box tampering.* There was no evidence of ballot-box tampering.¹³¹
- *Unsolicited absentee ballots.* Michigan prohibits the sending of absentee ballots without a prior request. Trump supporters made public claims that hundreds of thousands of absentee ballots were sent to voters without a prior request, in violation of Michigan law, but the Republican-controlled Senate Oversight Committee stated

¹²¹ Michigan Senate Oversight Committee, *Report on the November 2020 Election in Michigan* 6 (2021) [hereinafter MICHIGAN SENATE OVERSIGHT COMMITTEE REPORT], https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport_2.pdf.

¹²² *Id.* at 24. The Report also notes that the Department of Attorney General informed the committee on June 15, 2021 that it has been investigating issues related to the events at the TCF Center. *Id.* at 14 n.1.

¹²³ *Id.* at 19–21.

¹²⁴ *Id.* at 26–27.

¹²⁵ *Id.* at 27.

¹²⁶ *Id.* at 9.

¹²⁷ *Id.* The Report notes that election officials discovered or removed roughly 3,500 absentee ballots submitted by voters who were alive when they submitted the ballot but died before Election Day. *Id.*

¹²⁸ *Id.*

¹²⁹ Mauger, *supra* note 112.

¹³⁰ *Id.*

¹³¹ MICHIGAN SENATE OVERSIGHT COMMITTEE REPORT, *supra* note 121, at 22.

that “no evidence [was] presented to the Committee” supporting that claim.¹³² Instead, the Committee found that it appeared that many who claimed to have received an unsolicited ballot actually received an absentee-ballot *application*, which is called for under Michigan law.¹³³

- The report concluded that “while there are glaring issues that must be addressed in current Michigan election law, election security, and certain procedures, there is no evidence presented at this time to prove either significant acts of fraud or that an organized, wide-scale effort to commit fraudulent activity was perpetrated in order to subvert the will of Michigan voters.”¹³⁴

The Michigan Bureau of Elections released an Audit Report in April 2021, similarly concluding that, “[a]fter the most extensive audits in state history, no evidence of intentional misconduct of fraud by election officials was discovered.”¹³⁵

One of the principal claims by then-President Trump and his supporters was that direct-recording electronic voting machines in Michigan had been “intentionally and purposefully designed” to produce ballot-counting errors, with the result that thousands of votes were misrecorded. These claims were based primarily on an audit of votes in Antrim County, Michigan, conducted by a company named Allied Security Operations Group, led by Russell James Ramsland. Ramsland submitted a signed report to a Michigan court in December, 2020, claiming an “error rate” in Dominion voting machines of 68.05%. Trump tweeted the report as evidence of “massive fraud,” and referred repeatedly to the Ramsland report at the rally in Washington on January 6, 2021.¹³⁶ Even today it is one of the major contributing causes of the popular belief that the election was stolen.

Both the Michigan Bureau of Elections and the Senate Oversight Committee investigated the Ramsland claims. The Bureau of Elections found that there was “no evidence that equipment used to tabulate or report election results did not function properly when properly programmed and tested.”¹³⁷ After hearing “many hours of testimony,” the Senate Oversight Committee likewise found the Ramsland report inaccurate and wrote that the “significant amount of concern about the technology used to count ballots” in Antrim County stemmed from claims that were “unjustified and unfair to the people of Antrim County and the state of Michigan.”¹³⁸ An analysis by engineering and computer science professor J. Alex Halderman at the University of Michigan noted that the Ramsland report “contains an extraordinary number of false, inaccurate, or unsubstantiated statements and conclusions.”¹³⁹

¹³² *Id.* at 10.

¹³³ *Id.*

¹³⁴ *Id.* at 6.

¹³⁵ MICHIGAN BUREAU OF ELECTIONS, *supra* note 113, at 33.

¹³⁶ For background on the claims made by Ramsland and his company, see Emma Brown et al., *The Making of a Myth*, WASH. POST (May 9, 2021), <https://www.washingtonpost.com/investigations/interactive/2021/trump-election-fraud-texas-businessman-ramsland-asog/>.

¹³⁷ MICHIGAN BUREAU OF ELECTIONS, *supra* note 113, at 3.

¹³⁸ MICHIGAN SENATE OVERSIGHT COMMITTEE REPORT, *supra* note 121, at 19.

¹³⁹ J. Alex Halderman, *Analysis of the Antrim County, Michigan November 2020 Election Incident* 40 (2021), https://www.michigan.gov/documents/sos/Antrim_720623_7.pdf.

These conclusions were confirmed by a forensic review of the Dominion voting machines in Antrim County, ordered by the state court.¹⁴⁰ A day after the election, that County reported that Biden led Trump by 3,000 votes with 98% of the votes counted.¹⁴¹ This was a mistake, and officials soon corrected the results to show that Trump won by more than 3,000 votes.¹⁴² Trump claimed that this revealed fraud with the Dominion voting machines.¹⁴³ It was later confirmed, however, that a County clerk made the error, which never made it into the official results.¹⁴⁴ A manual hand count of all paper ballots in Antrim County, held on December 17, 2020, found results almost identical to the voting machine results (which were uncorrupted by the clerk's error).¹⁴⁵ Further, Michigan Secretary of State Jocelyn Benson instituted a statewide hand recount of 18,000 randomly selected ballots, which confirmed Biden's win; she found that "the percentage of votes for each candidate was within fractions of a percentage point of machine-tabulated totals."¹⁴⁶ The audit confirmed the accuracy of the various vote-counting machines, including Dominion.¹⁴⁷ The Trump team has not suggested any flaws in this audit.

Both the Michigan Bureau of Elections and the Senate Oversight Committee looked into allegations of "imbalances," where claimants alleged that the number of absentee ballots did not match the number of voters recorded as having returned absentee ballots.¹⁴⁸ While there were some small imbalances (for example, four out of 41,000 absentee ballots in one instance and 21 out of 174,000 in another), there was no evidence of intentional misconduct or fraud by election officials.¹⁴⁹ The Senate Committee Report found "the unbalanced precincts in Michigan counties were marginal and, in no way, would have impacted the outcome of the Presidential election."¹⁵⁰

We do not mean to suggest that the voting systems used in Michigan were perfect, or that they were impervious to fraud. Responsible experts have recommended that electronic voting counts be supplemented with paper records to enable recounts and detect error. But in 2020, despite well-funded efforts by pro-Trump investigators to find evidence of fraud or significant error, they found none.

The Associated Press reviewed every potential case of voter fraud and also concluded there was no widespread voter fraud in Michigan.¹⁵¹ The AP found 56 potential instances of voter fraud, representing 0.04% of Biden's margin of victory in Michigan.¹⁵² Most of these cases involved two individuals suspected of submitting some 50 fraudulent requests for absentee

¹⁴⁰ Angelo Fichera, *Audit in Michigan County Refutes Dominion Conspiracy Theory*, FACTCHECK.ORG (Dec. 18, 2020), <https://www.factcheck.org/2020/12/audit-in-michigan-county-refutes-dominion-conspiracy-theory/>.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ D'Angelo Gore et al., *Trump's 'Most Important' Speech Was Mostly False*, FactCheck.org (Dec. 3, 2020), <https://www.factcheck.org/2020/12/trumps-most-important-speech-was-mostly-false/>.

¹⁴⁴ *Id.*

¹⁴⁵ Fichera, *supra* note 140.

¹⁴⁶ *Statewide Election Audit Process Affirms Presidential Election Outcome*, MICH. DEP'T STATE (Feb. 12, 2021), <https://www.michigan.gov/sos/0,4670,7-127--552029--,00.html>.

¹⁴⁷ *Id.*

¹⁴⁸ MICHIGAN BUREAU OF ELECTIONS REPORT, *supra* note 113, at 8.

¹⁴⁹ *Id.* at 15–16, 20, 33.

¹⁵⁰ MICHIGAN SENATE OVERSIGHT COMMITTEE REPORT, *supra* note 121, at 23.

¹⁵¹ Cassidy, *supra* note 19.

¹⁵² *Id.*

ballots in three counties, all of which were flagged by election officials; no ballots were improperly cast.¹⁵³

Other legal claims fall into the following categories.

1. *Challenger Access.*

Several plaintiffs alleged that election challengers did not have adequate access to monitor absentee-ballot counting and processing. Michigan's election procedures provide that absentee ballots may be processed and counted by either the board of election inspectors serving at a voter's assigned precinct or by an Absent Voter Counting Board ("AVCB").¹⁵⁴ Plaintiffs alleged that Republican challengers were removed or given inadequate access to watch the AVCBs in action. Specifically, various lawsuits alleged that Republican challengers were denied a meaningful opportunity to observe the counts, denied access to the facility, and denied re-entry; that Republican challengers who left the facility were not replaced while Democratic challengers were; that social distancing was enforced in a partisan manner; that election officials blocked challengers from viewing the handling and counting of ballots; that challengers were forced to observe at unreasonable distances; that windows were covered to prevent viewing; and that election officials intimidated, threatened, and harassed challengers.¹⁵⁵

Every court that examined these allegations by Trump or his supporters found them either insufficient or not credible. One state court determined that allegations of inadequate access at Detroit's TCF Center were based entirely on unsubstantiated speculation.¹⁵⁶ A different state court rejected similar allegations on procedural grounds.¹⁵⁷ The federal court rejected allegations relating to the treatment of challengers as not bearing on the validity of votes.¹⁵⁸ That court subsequently awarded more than \$150,000 in sanctions against the Trump-aligned plaintiffs' attorneys.¹⁵⁹

The court wrote in a 110-page decision:

¹⁵³ *Id.*

¹⁵⁴ Michigan law prevented officials from beginning to process the state's 3.3 million absentee ballots until 7 a.m. on Election Day, and by Wednesday morning after the election, many large municipalities like Detroit were still tallying votes. *See, e.g.,* Riley Beggin, *Why Michigan is Waiting: State Law Bars Early Counting of Absentee Votes*, BRIDGE MICHIGAN (Nov. 4, 2020), <https://www.bridgemi.com/michigan-government/why-michigan-waiting-state-law-bars-early-counting-absentee-votes>.

¹⁵⁵ *E.g.,* Complaint, *King v. Whitmer*, No. 2:20-cv-13134 (E.D. Mich. Nov. 25, 2020); Complaint, *Donald J. Trump for President, Inc. v. Benson*, No. 20-000225-MZ, 2021 WL 433995 (Mich. Ct. Cl. Jan. 6, 2021); Complaint, *Donald J. Trump for President, Inc. v. Benson*, No. 1:20-cv-01083 (W.D. Mich. Nov. 11, 2020); Complaint, *Stoddard v. City Election Comm'n*, No. 20-014604-CZ (Wayne Cnty. Cir. Ct. Nov. 4, 2020); Complaint, *Bally v. Whitmer*, No. 1:20-cv-1088 (W.D. Mich. Nov. 11, 2020); Complaint, *Costantino v. Detroit*, No. 20-014780-AW (Wayne Cnty. Cir. Ct. Nov. 9, 2020); Complaint, *Johnson v. Benson*, No. 162286 (Nov. 26, 2020).

¹⁵⁶ *Stoddard*, No. 20-014604 (Wayne Cnty. Cir. Ct. Nov. 4, 2020).

¹⁵⁷ *Donald J. Trump for President, Inc. v. Benson*, 2021 WL 433995.

¹⁵⁸ *King v. Whitmer*, 505 F. Supp. 3d 720, 738 (E.D. Mich. Dec. 7, 2020). Because we sometimes note when decisions were rendered by Republican or Trump-appointed judges, it is only fair to point out that the judge in this case was an Obama appointee. That does not provide any reason to doubt the reliability of the court's conclusions.

¹⁵⁹ *King*, No. 2:20-cv-13134, 2021 WL 5711102 (E.D. Mich. Dec. 2, 2021); Judgment, *King*, No. 2:20-cv-13134 (E.D. Mich. Dec. 2, 2021), ECF No. 180.

This lawsuit represents a historic and profound abuse of the judicial process. It is one thing to take on the charge of vindicating rights associated with an allegedly fraudulent election. It is another to take on the charge of deceiving a federal court and the American people into believing that rights were infringed, without regard to whether any laws or rights were in fact violated. This is what happened here. . . .

The attorneys who filed the instant lawsuit abused the well-established rules applicable to the litigation process by proffering claims not backed by law; proffering claims not backed by evidence (but instead, speculation, conjecture, and unwarranted suspicion); proffering factual allegations and claims without engaging in the required prefiling inquiry; and dragging out these proceedings even after they acknowledged that it was too late to attain the relief sought.

*And this case was never about fraud—it was about undermining the People’s faith in our democracy and debasing the judicial process to do so.*¹⁶⁰

The Michigan Supreme Court dismissed a petition with similar challenges.¹⁶¹

2. *Dominion Voting Machines.*

As discussed above, Trump-aligned Plaintiffs alleged fraud with Dominion voting machines and misconduct by Michigan election officials. They alleged that Dominion voting machines were tampered with, resulting in unreliable ballot counts.¹⁶² They alleged that Biden received 2,015 “phantom votes” in Antrim County as a result of defective (or tampered-with) Dominion machines.¹⁶³ Each court that examined these fraud allegations found them meritless.

A federal court soundly rejected claims that election machines and software in Wayne County flipped Trump votes to Biden.¹⁶⁴ The plaintiffs relied on a report by Russell James Ramsland claiming that Dominion voting machines injected 289,866 illegal votes in Michigan.¹⁶⁵ The federal court found that these allegations amounted to nothing more than “an amalgamation of

¹⁶⁰ *King*, 556 F. Supp. 3d 680, 688–89 (E.D. Mich. Aug. 25, 2021) (emphasis in original).

¹⁶¹ *Johnson v. Benson*, 506 Mich. 975 (2020). Three justices dissented.

¹⁶² See Compl., *Bailey v. Antrim Co.*, No. 2020-9238 CZ (Mich. Cir. Ct. Nov. 23, 2020); Compl., *Bally v. Whitmer*, No. 1:20-cv-1088 (W.D. Mich. Nov. 11, 2020) (alleging that same untested Dominion machines used in Wayne County); Compl. ¶ 5, *King v. Whitmer*, No. 2:20-cv-13134 (E.D. Mich. Nov. 25, 2020) (alleging that Dominion was “founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election”).

¹⁶³ Compl. ¶ 28, *Bailey v. Antrim Co.*, No. 2020-9238 CZ (Mich. Cir. Ct. Nov. 23, 2020).

¹⁶⁴ *King*, 505 F. Supp. 3d at 738.

¹⁶⁵ See Russell Ramsland, *Antrim Michigan Forensics Report*, ALLIED SEC. OPERATIONS GRP. § B.2 (Dec. 13, 2020), <https://s3.documentcloud.org/documents/20423772/antrim-county-forensics-report.pdf>; see also Compl. ¶ 11, *King*, 505 F. Supp. 3d 720.

theories, conjecture, and speculation that such alterations were *possible*.¹⁶⁶ That court later sanctioned the plaintiffs’ attorneys for failing to “inquire into Ramsland’s outlandish and easily debunked numbers.”¹⁶⁷ “Even the most basic internet inquiry would have alerted Plaintiffs’ counsel to the wildly inaccurate assertions in Ramsland’s affidavit.”¹⁶⁸ For example, Ramsland represented data as being from Michigan when it was actually from Minnesota.¹⁶⁹

As noted above, a state court permitted a forensic review of the Dominion voting machines in Antrim County.¹⁷⁰ After this review failed to uncover any fraud, the case was dismissed.¹⁷¹

3. *Absentee Ballot Drop Box Video Surveillance.*

Challengers alleged that ballots were deposited in remote, unattended absentee-ballot drop boxes without meaningful opportunity to observe or challenge the ballots, in violation of state law.¹⁷² A state court found that the challengers provided no factual basis to support their allegations.¹⁷³ Responsible experts in election procedure have observed that unattended drop boxes are inconsistent with best practices and are insufficiently protected against potential fraud. But that is not the same as saying that in any particular election, there actually *was* fraud. Persons who claim that a democratic election has been tainted by fraud bear a burden, both in court and in public discourse, to rely on provable facts and actual evidence. It is poisonous to our system for people on either side of the aisle to lodge allegations of voting fraud without being able to back them up.

4. *Alleged TCF Center Fraud.*

There were numerous claims of mistake, irregularity, and fraud at the Detroit-area voting centers, and particularly the TCF Center.¹⁷⁴ Trump-aligned plaintiffs claimed that election officials processed ballots from voters whose names failed to appear on qualified-voter-file lists; instructed election workers not to verify signatures on absentee ballots, to backdate absentee ballots, and to process such ballots regardless of their validity; processed “vote dumps,” or batches of tens of thousands of unsecured and unsealed ballots, some brought into the TCF Center by suitcases and coolers, and attributed the ballots only to Democratic candidates;

¹⁶⁶ King v. Whitmer, 505 F. Supp. 3d 720, 738 (E.D. Mich. Dec. 7, 2020).

¹⁶⁷ King v. Whitmer, 556 F. Supp. 3d 680, 723 (E.D. Mich. Aug. 25, 2021) (boldface deleted).

¹⁶⁸ *Id.* at 724.

¹⁶⁹ *Id.*

¹⁷⁰ Bailey v. Antrim Co., No. 2020-9238 CZ (Mich. Cir. Ct. May 18, 2021).

¹⁷¹ Clara Hendrickson, *Judge Dismisses Antrim County Election Fraud Lawsuit*, DETROIT FREE PRESS (May 18, 2021), <https://www.freep.com/story/news/politics/2021/05/18/michigan-judge-antrim-county-election-lawsuit/4980333001/>.

¹⁷² Compl., *Donald J. Trump for President, Inc. v. Benson*, No. 20-000225-MZ, 2020 WL 6482579 (Mich. Ct. Cl. Nov. 4, 2020).

¹⁷³ Donald J. Trump for President, Inc. v. Benson, No. 20-000225-MZ, 2020 WL 6594903 (Mich. Ct. Cl. Nov. 6, 2020).

¹⁷⁴ Compl., *Johnson v. Benson*, No. 1:20-cv-01098 (W.D. Mich. Nov. 16, 2020); Compl., *Costantino v. City of Detroit*, No. 20-014780-AW (Mich. Cir. Ct. Nov. 9, 2020); Compl., *Bally v. Whitmer*, No. 1:20-cv-1088 (W.D. Mich. Nov. 11, 2020); Compl., *Donald J. Trump Campaign v. Benson*, 2020 WL 8573864 (W.D. Mich. Nov. 11, 2020); Compl., *King v. Whitmer*, No. 2:20-cv-13134 (E.D. Mich. Nov. 25, 2020); Compl., *Johnson v. Benson*, No. 162286 (Mich. Nov. 26, 2020); Compl., *Stoddard v. City Election Commission*, No. 20-014601-cz (Mich. Cir. Ct. Nov. 4, 2020).

systematically used false information (such as birthdays) to process ballots; refused to record challenges to their processes; removed challengers that politely voiced challenges; intimidated poll watchers; locked credentialed challengers out of the counting room; coached voters to vote for Biden and watched them vote; used ballot tabulators that miscounted votes for Trump and counted them for Biden; used election workers whose salaries were provided by Democratic Party operatives; and failed to ensure that ballots were duplicated correctly.¹⁷⁵

Courts rejected each of these claims for lack of factual basis. A federal district court found no evidence of tampering or improperly counting ballots.¹⁷⁶ The “closest Plaintiffs g[o]t” on their claim that physical ballots were altered was an affiant’s statement that they “believe[d]” some workers were changing votes. But, as the court explained, “a belief is not evidence,” and “nothing but speculation and conjecture” supported claims “that votes for President Trump were destroyed, discarded or switched to votes for Vice President Biden.”¹⁷⁷ After an evidentiary hearing, a state court found that the Trump plaintiffs’ “interpretation of events [wa]s incorrect and not credible.”¹⁷⁸ Another state court found that the claims were “based upon speculation and conjecture.”¹⁷⁹ The court held that plaintiffs’ evidence failed to show that they were likely to succeed on the merits.¹⁸⁰ The Michigan Supreme Court also declined the opportunity to examine challenges to TCF Center activities.¹⁸¹

5. *AVCB Balancing, Ineligible Voters, Unsolicited Ballots, and Third-Party Funds.*

Plaintiffs brought claims about imbalances in absentee ballots, ineligible voters, and receipt of unsolicited absentee ballots to the Michigan Supreme Court.¹⁸² They also alleged that more than \$9.8 million in private money was poured into the state to create an unfair election system that favored Democratic strongholds’ voter-registration and get-out-the-vote efforts. The Michigan Supreme Court denied the petition, declining to exercise jurisdiction.¹⁸³ There is much to criticize in the involvement of private funding in voting drives, but there are many unfair things that happen in elections, which have nothing to do with fraud.

Summary

All claims of any wrongdoing sufficient to affect the result of the 2020 Presidential Election in Michigan have been thoroughly investigated and refuted. There was no widespread voter fraud. There was no such fraud at Detroit’s TCF Center, no evidence of ballot-box tampering, and no evidence of intentional misconduct or fraud by election officials. Claims of fraud by

¹⁷⁵ Compl., *Costantino v. City of Detroit*, No. 20-014780-AW (Mich. Cir. Ct. Nov. 9, 2020); Compl., *Donald J. Trump Campaign v. Benson*, No. 1:20-cv-01083 (W.D. Mich. Nov. 11, 2020); Compl., *Johnson v. Benson*, No. 1:20-cv-01098 (W.D. Mich. Nov. 16, 2020); Amanda Seitz & David Klepper, *Dangerously Viral: How Trump Supporters Spread False Claims*, ABC NEWS (Dec. 4, 2020), <https://abcnews.go.com/Politics/wireStory/dangerously-viral-trump-supporters-spread-false-claims-74533348>.

¹⁷⁶ *King v. Whitmer*, 505 F. Supp. 3d 720, at 738 (E.D. Mich. Dec. 7, 2020).

¹⁷⁷ *Id.*

¹⁷⁸ *Costantino v. City of Detroit*, No. 20-014780-AW (Mich. Cir. Ct. Nov. 13, 2020).

¹⁷⁹ *Stoddard v. City Election Commission*, No. 20-014601-cz (Mich. Cir. Ct. Nov. 6, 2020).

¹⁸⁰ *Id.*

¹⁸¹ *Johnson*, *supra* note 161.

¹⁸² Compl., *Johnson v. Benson*, No. 162286 (Mich. Nov. 26, 2020).

¹⁸³ *Johnson v. Benson*, 506 Mich. 975 (2020).

Dominion voting machines were riddled with “wildly inaccurate assertions” and eviscerated after a forensic review of the machines. Legal challenges were aptly described by one judge as “profound abuse of the judicial process,” and attempt to “undermin[e] the People’s faith in our democracy.”¹⁸⁴

Addendum

A list of state and federal cases filed in Michigan follows.

ADDENDUM

Case	Claim	Result
Bailey v. Antrim Co., 2020-9238 CZ (Mich. Cir. Ct., Antrim Cnty.)	Voters alleged that Dominion voting machines erroneously recorded the vote in Antrim County. Plaintiffs asked to conduct forensic review of Dominion voting machines.	Judge granted temporary injunction and authorized forensic examination of machines on December 4, 2020. Review conducted and results published in Ramsland report. Judge dismissed suit as moot on May 18, 2021, because relief sought was obtained.
Bally v. Whitmer, No. 1:20-cv-1088 (W.D. Mich.)	Voters alleged that election officials refused to permit statutorily designated challengers observe the conduct of elections and the processing of ballots; disregarded valid challenges; pre-dated ballots not eligible to be counted; counted ineligible ballots; allowed ballots to be dropped into unattended drop boxes; and engaged in other conduct contrary to federal statutory and constitutional law. Voters asked the court to enjoin certification and exclude improperly counted ballots.	Plaintiffs voluntarily dismissed four days after filing suit.
Costantino v. City of Detroit, 20-014780-AW (Mich. Cir. Ct., Wayne Cnty.); No. 355443 (Mich. Ct. App.); No. 162245 (Mich. Supr. Ct.)	Voters alleged defendants engaged in election fraud, mainly at Detroit’s TCF Center, by processing votes from ineligible (and nonexistent) voters, processing unverified ballots and ballots received after the deadline, systematically using false information to process ballots, coaching voters to vote for Biden, and restricting challengers’ access, in addition to other fraudulent actions. Voters sought a statutorily permitted audit of the city of Detroit’s election results.	Judge dismissed after holding a hearing on the merits and determining that defendants offered a more “persuasive explanation of activity”; the Michigan Court of Appeals and the Michigan Supreme Court denied plaintiffs’ requests for leave to file appeal.

¹⁸⁴ King, *supra* note 176, at 688–89.

Case	Claim	Result
Donald J. Trump for President, Inc. v. Benson, No. 20-000225-MZ (Mich. Ct. Claims); No. 355378 (Mich. Ct. App.); No. 162320 (Mich. Supr. Ct.)	Trump campaign and election challenger alleged that election officials unlawfully excluded election challengers from viewing the absentee/mail-in ballot review process. Plaintiffs sought an order that would halt ballot counting until challengers were present and would segregate uninspected ballots.	Judge denied emergency petition for relief in November 2020 after holding evidentiary hearing; dismissed as moot in January 2020. Michigan Court of Appeals and Michigan Supreme Court denied leave to appeal.
Donald J. Trump for President, Inc. v. Benson, No. 1:20-cv-01083 (W.D. Mich.)	Trump campaign alleged that election officials unlawfully excluded election challengers from viewing the absentee/mail-in ballot review process. Plaintiffs asked the court to enjoin certification until compliance with state law confirmed.	Plaintiffs voluntarily dismissed one week after filing suit.
Johnson v. Benson, No. 162286 (Mich. Supr. Ct.)	Voters alleged that some 500,000 ballots were unlawful due to nefarious ballot-counting activities at Detroit’s TCF center and by implementing an absentee-ballot scheme that sent unsolicited absentee ballots and had the effect of counting unlawfully cast ballots and diluted validly cast ballots.	Petition to file complaint invoking Michigan Supreme Court’s original jurisdiction denied. Two justices dissented.
Johnson v. Benson, No. 1:20-cv-01098 (W.D. Mich.)	Voters asked the court to enjoin certification of Michigan’s popular vote in the presidential election, alleging that the state’s absentee-voting procedures were unconstitutional.	Plaintiffs voluntarily dismissed three days after filing suit.
King v. Whitmer, No. 20-13134 (E.D. Mich.); No. 20-815 (U.S.)	Voters, via former Trump counsel Sidney Powell, alleged that defendants violated various state and federal laws by denying meaningful access for party representatives to observe the counting of votes, treating one class of Michigan voters (in-person voters) differently than another class of Michigan voters (absentee/mail-in voters), and permitting widespread voter fraud due to the use of Dominion voting machines and software. Voters sought decertification of the presidential election results.	Judge dismissed the case on sovereign-immunity and other justiciability grounds after a hearing on the merits. The U.S. Supreme Court denied the petition for expedited consideration, and the parties later stipulated to dismissal.
Stoddard v. City Election Commission, No. 20-014604-CZ (Mich. Cir.	Voter and nonprofit Election Integrity Fund alleged that defendant failed to ensure that representatives of both political parties were present at the Absent Voter Counting Board as required by Michigan law and unlawfully	Judge denied petition on grounds that plaintiffs failed to show a likelihood of success on the merits; plaintiffs did not appeal.

Case	Claim	Result
Ct., Wayne Cnty.)	“cured” deficient ballots. Plaintiffs sought an order that would halt ballot duplicating until observers were present and would segregate duplicated ballots.	

Nevada

Donald Trump or his supporters brought ten cases with 28 counts challenging the results in Nevada. Despite one of his key supporters claiming that in Nevada “we have thousands and thousands of examples of real people in real-life instances of voter illegality” and that Nevada was “the big treasure trove of illegal balloting in all of” the states Trump contested,¹⁸⁵ as detailed below, Trump and his supporters were unsuccessful in proving fraud or irregularities sufficient to overturn the election results in any court or investigation.

According to Nevada election officials who certified the results, President Biden carried Nevada by a margin of 33,596 votes over Trump, out of nearly 1.4 million votes cast.¹⁸⁶ Biden received 50.1% of the vote.¹⁸⁷ Trump received 47.7% of the vote.¹⁸⁸ In 2016, Clinton carried Nevada by a margin of 27,202 votes out of approximately 1.125 million votes cast,¹⁸⁹ receiving 47.9% of the vote¹⁹⁰ to Trump’s 45.5%.¹⁹¹

Biden’s win in Nevada, like Clinton’s, is attributable to a reliable base of Democrats in southern Nevada.¹⁹² He performed far better with Latina women than Latino men and outperformed Trump with independents.¹⁹³

The Nevada Secretary of State, a Republican, conducted numerous investigations of the election results, based on nearly 300 election complaints submitted by Trump and his supporters between September 2020 and March 2021.¹⁹⁴ Those investigations repeatedly confirmed the integrity of the election,¹⁹⁵ finding no allegations of election misconduct that would have any impact on the election results. In December 2020, the Secretary of State announced that her office had uncovered evidence of several isolated cases of possible voter fraud but had not

¹⁸⁵ Angelica Stabile, *Matt Schlapp: Nevada Allowing Trump Team to Present Election Fraud Case “A Great Step,”* FOX NEWS (Nov. 24, 2020), <https://www.foxnews.com/politics/matt-schlapp-nevada-trump-2020-campaign-voter-fraud-evidence>.

¹⁸⁶ Nevada Secretary of State, *2020 Statewide General Election Results*, <https://www.nvsos.gov/SOSelectionPages/results/2020StateWideGeneral/ElectionSummary.aspx> (last visited June 7, 2022).

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ Nevada Secretary of State, *Silver State 2016 Election Night Results*, <https://www.nvsos.gov/silverstate2016gen/USPresidential/index.shtml> (last visited June 7, 2022).

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² James DeHaven, *It’s Over: How Biden Won Nevada as Ballot Count Continues in Post-2020 Election Whirlwind*, RENO GAZETTE JOURNAL (Nov. 7, 2020), <https://www.rgj.com/story/news/politics/2020/11/07/election-results-2020-how-joe-biden-won-nevada-ballot-clark-county/6206337002/>.

¹⁹³ *Nevada Exit Polls: How Different Groups Voted*, N.Y. TIMES (last visited June 7, 2022), <https://www.nytimes.com/interactive/2020/11/03/us/elections/exit-polls-nevada.html>; DeHaven, *supra* note 192.

¹⁹⁴ See, e.g., Riley Snyder & Michelle Rindels, *Most 2020 Nevada Election Integrity Cases Resolved Without Finding of Fraud; Recent Republican Document Drop Under Review*, NEVADA INDEPENDENT (Mar. 18, 2021), <https://thenevadaindependent.com/article/most-2020-nevada-election-integrity-cases-resolved-without-finding-of-fraud-recent-republican-document-drop-under-review>.

¹⁹⁵ Riley Snyder, *Cegavske: No “Evidentiary Support” Among NV GOP Claims that 2020 Election Was Plagued by Widespread Fraud*, NEVADA INDEPENDENT (April 21, 2021), <https://thenevadaindependent.com/article/cegavske-no-evidentiary-support-among-nv-gop-claims-that-2020-election-was-plagued-by-widespread-fraud>.

uncovered evidence of any large-scale fraud that would affect the outcome of the presidential election.¹⁹⁶

In early March 2021, the state Republican Party delivered another 3,000 complaints to the Secretary. In April 2021, the Secretary issued a response finding that most of these complaints were based on a misunderstanding of how voter registration records were created and kept.¹⁹⁷ None involved widespread fraud that would call into question the election results, the Secretary found. A few involved discrete events that were already under investigation by the Secretary's office or referred for investigation by law enforcement.¹⁹⁸

The Associated Press independently reviewed the Trump claims of voter fraud and found no evidence of widespread fraud.¹⁹⁹ Local election officials identified fewer than 100 potential fraud cases, representing less than 0.3% of Biden's margin of victory.²⁰⁰

1. *Voter Fraud.*

No allegations of voter fraud were found to be meritorious at the scale necessary to impact the outcome of the election.

A state court found that plaintiffs had failed to offer sufficient evidence to support their claims that officials counted ballots cast by nonresidents and improperly authenticated ballots in sufficient numbers to affect the outcome.²⁰¹ We emphasize that the court's finding was that Trump and his supporters failed *even to offer* sufficient evidence. In other words, when given a chance to prove their claims in court, they came up short.

2. *Interference With Election Observers.*

Voters in Clark County alleged that the election officials failed to give observers adequate access to ballot counting. Despite concluding that the plaintiffs had no standing to bring such claims, the court invited them to make their best case. After evidentiary hearings that examined all evidence the plaintiffs presented, two separate state-court judges dismissed these claims, finding no evidence that election officials had done anything amiss.²⁰²

¹⁹⁶ Nevada Secretary of State, *Facts vs. Myths: Nevada 2020 Post-General Election* (last visited Dec. 20, 2021), <https://www.nvsos.gov/sos/home/showpublisheddocument?id=9191>.

¹⁹⁷ Report of the Office of Secretary of State Re: Elections Integrity Reports (Apr. 21, 2021), <https://www.nvsos.gov/sos/home/showpublisheddocument?id=9428>.

¹⁹⁸ *Id.*; David Charns, *I-Team: Nevada Review Finds Some Cases of Dead or Double Voters, But No Widespread Fraud*, 8 NEWS NOW (Apr. 21, 2021), <https://www.8newsnow.com/i-team/i-team-nevada-review-finds-some-cases-of-dead-or-double-voters-but-no-widespread-fraud/>.

¹⁹⁹ Cassidy, *supra* note 19.

²⁰⁰ State Details of AP's Review of Potential Voter Fraud Cases, *supra* note 74.

²⁰¹ *Law v. Whitmer*, 477 P.3d 1124, 2020 WL 7240299 (Nev. Dec. 8, 2020).

²⁰² *Kraus v. Cegavske*, No. 20 OC 00142 (Nev. Dist. Ct. Oct. 29, 2020), slip op. at 11; *Law v. Whitmer*, No. 20 OC 00163 (Nev. Dist. Ct. Dec. 8, 2020), slip op. at 22; Stephanie Becker, *Judge Rejects Republican Efforts to Halt Early Vote Counting in Las Vegas*, CNN POLITICS (Nov. 2, 2020), <https://www.cnn.com/2020/11/02/politics/nevada-las-vegas-signature-lawsuit/index.html>.

3. *Fraud by Agilis Machines.*

Several lawsuits brought in state and federal courts alleged that the use of the Agilis Ballot Sorting System led to fraud and malfunctions that affected the election results. Some of these claims attacked the reliability of the machines themselves. Others alleged misconduct in their use by election officials. No court found evidence to support any of these allegations.

A claim brought in state court by voters in Clark County alleged that use of Agilis machines was unlawful. A state court dismissed this, stating there was no evidence of any Agilis errors or inaccuracies.²⁰³ A federal court dismissed similar claims after a hearing due to lack of evidence.²⁰⁴

4. *AB4 and Unlawful Absentee-Voting Procedures.*

Several pre-election lawsuits targeted Assembly Bill 4 (“AB4”), a statute enacted in August 2020 that modified voting procedures during states of emergency in ways that plaintiffs alleged invited fraud. The Trump Campaign, the Republican National Committee, and the Nevada Republican Party immediately challenged the statute in federal court. Their lawsuit was dismissed for lack of standing.²⁰⁵ Both federal and state courts ultimately rejected claims that the statute unlawfully treated in-person votes differently than absentee ballots.²⁰⁶ Even if these claims were correct—and there is no reason to assume they were—they did not purport to identify any fraud, or any mistakes in vote tabulation.

5. *Voter Drives and Bribery.*

A state court found that plaintiffs had failed to show that state officials unlawfully conducted voting drives and offered something of value—T-shirts—in exchange for voting.²⁰⁷ Another lawsuit alleged that voter drives targeting Native Americans had unlawfully depicted Biden and his running mate, Kamala Harris, in promotional materials, unfairly swaying the election in their favor.²⁰⁸ The state court dismissed the claims, finding no evidence of voter manipulation.²⁰⁹ It is not unusual for campaigns to challenge various aspects of election administration, which are properly resolved in court prior to the election. They provide no basis for disqualifying votes or overturning results *after* the election.

²⁰³ Kraus v. Cegavske, No. 20 OC 00142 (Nev. Dist. Ct. Oct. 29, 2020), slip op. at 4, 12.

²⁰⁴ See Hearing Trans., Stokke v. Cegavske, No. 2:20-cv-02046 (D. Nev. Nov. 6, 2020); see also Law v. Whitmer, No. 20 OC 00163 1B (Nev. Dist. Ct. Nov. 17, 2020), *aff'd*, No. 82178, 477 P.3d 1124, 2020 WL 7240299 (Nev. 2020).

²⁰⁵ Trump v. Cegavske, 488 F. Supp. 3d 993 (D. Nev. 2020).

²⁰⁶ Kraus v. Cegavske, No. 20 OC 00142 (Nev. Dist. Ct. Oct. 29, 2020), slip op. at 13; Hearing Trans. at 78-79, Stokke v. Cegavske, No. 2:20-cv-02046 (D. Nev. Nov. 6, 2020).

²⁰⁷ Law v. Whitmer, 477 P.3d 1124, 2020 WL 7240299 (Nev. 2020); Statement of Contest at 19, ¶ 96, Law v. Whitmer, No. 20 OC 00163 1B (Nev. Dist. Ct. Dec. 8, 2020).

²⁰⁸ Law v. Whitmer, 477 P.3d 1124, 2020 WL 7240299 (Nev. 2020).

²⁰⁹ *Id.*

Summary

The 2020 Presidential Election in Nevada was conducted with integrity, as affirmed and reaffirmed by investigations. Cases of voter fraud were isolated and few. There was no illegal interference with election observers, fraud by voting machines, unlawful absentee-voting procedures, or bribery of voters.

Addendum

A list of state and federal cases filed in Nevada follows.

ADDENDUM

Case	Claim	Result
Kraus v. Cegavske, No. 20 OC 00142 (1st Jud. District, Nev.); No. 82018 (Nev. Supr. Ct.)	<i>Pre-Election:</i> Plaintiffs challenged the Clark County Registrar’s failure to submit a timely election-procedure plan to the Secretary of State, along with its use of Agilis machines to process ballots. Plaintiffs also challenged adequacy of observer procedures and asked the court to hold that Nevada’s Secretary of State was required to submit a plan to the Clark County Registrar that ensured meaningful observation of the ballot-counting process.	State court determined that plaintiffs lacked standing and that the claims failed on the merits, as Registrar had submitted permissible plan. Plaintiffs appealed to the state Supreme Court on Election Day, Nov. 3, 2020, but voluntarily dismissed the appeal one week later.
Elections Integrity Project of Nevada v. Cegavske, No. A-20-820510-C (Clark Cnty. District Ct.); No. 81847 (Nev. Supr. Ct.)	The Election Integrity Project and a voter sought to enjoin certification of election results due to widespread fraud enabled by allegedly unconstitutional mail-in ballot legislation, AB4, which (1) allocated in-person polling places unequally, (2) permitted different counties to use different counting procedures, (3) provided no minimal procedural safeguards to protect against unequal evaluation of ballots, (4) permitted votes cast after election day to be counted, and (5) permitted duplicate voting or ballots mailed to ineligible or deceased voters.	State court held a hearing and found that there was insufficient evidence that implementation of AB4 would dilute votes cast or otherwise lead to incorrect results. The Nevada Supreme Court affirmed, agreeing that plaintiffs failed to make their prima facie showing or provide any “concrete evidence” that illegitimate votes would be counted under the law.
Stokke v. Cegavske, No. 2:20-CV-02046 (D. Nev.)	Candidates and voters alleged that use of the Agilis software system violated state and federal law by placing voters in Clark County at unequal risk of having their votes diluted by votes with mismatched signatures. Plaintiffs also sought greater access for ballot-counting observers.	Judge held an evidentiary hearing and denied plaintiffs’ request for a temporary restraining order. Plaintiffs later voluntarily dismissed the suit.
Becker v. Gloria, No. A-20-824878-W (Clark Cnty. Dist. Ct.)	Candidates and voters alleged that Clark County officials flouted state election law by “flooding” the county with untraceable ballots and using the Agilis mail-ballot processing machines rather than hand-verifying signatures as required by Nevada law. They sought an order requiring new election in Clark County.	State court dismissed suit for lack of jurisdiction and on the merits, as no evidence of ballot discrepancies was offered.
Law v. Whitmer, 20	Presidential Electors for Trump alleged widespread electronic voting systems	State court dismissed suit on jurisdictional grounds but also

Case	Claim	Result
OC 00163 1B (1st Jud. District, Nev.); No. 82178 (Nev. Supr. Ct.)	malfunctions both due to the Agilis machines and generally across the country; that voting drives to encourage Native Americans to vote favorably depicted Biden-Harris in promotional material and that any resulting votes should be invalidated; and that the Agilis machines, which were used to verify signatures in Clark County but not elsewhere, resulted in an equal protection violation. Plaintiffs sought certification of Trump as the election winner.	ruled on the merits that there was no proof of machine malfunctions, improper votes, election-board malfeasance, or vote manipulation. The court dismissed the case with prejudice. The Nevada Supreme Court affirmed.
Trump v. Cegavske, No. 2:20-cv-1445 (D. Nev.)	<i>Pre-Election:</i> The Trump Campaign, Republican National Committee, and state Republican Party alleged that changes to the state's election procedures (i.e., accepting ballots received after Election Day) violated federal law.	Judge dismissed suit for lack of standing.
Rodimer v. Gloria, No. A-20-825130-W (Clark Cnty. Dist. Ct.)	Candidate alleged that Clark County officials' use of the Agilis system to verify signatures violated state law requiring that verification be conducted by a human. Candidate sought invalidation of all votes verified by the system and new election.	After oral argument, state court dismissed suit for lack of jurisdiction.
Becker v. Cannizzaro, No. A-20-825067-P (Clark Cnty. Dist. Ct.)	Candidate contended that the Clark County Registrar of Voters found discrepancies in ballot tracking, used the allegedly unreliable Agilis system, and should have moved certain voters to the inactive list. Candidate sought a new election.	Plaintiffs voluntarily dismissed case two days after filing suit.
Marchant v. Gloria, No. A-20-824884-W (Clark Cnty. Dist. Ct.)	Candidate alleged that Clark County officials' use of the Agilis system to verify signatures violated state law requiring that verification be conducted by a human.	State court dismissed case for lack of jurisdiction and also wrote that the claim would fail on the merits because plaintiff failed to show ballot loss or destruction.
Donald J. Trump for President v. Gloria, No. A-20-824153-C (Clark Cnty. Dist. Ct.)	Trump Campaign and state Republican Party sought injunctive relief from Clark County to keep poll locations affected by voting machine malfunctions open until 8:00 p.m.	State court issued order requiring polls to remain open until 8:00 p.m. Plaintiffs thereafter voluntarily dismissed the suit.

Pennsylvania

Pennsylvania was one of two states whose Electors were formally challenged during the joint session of Congress on January 6, 2021, and was also the focus of a number of lawsuits and public claims. Donald Trump and his supporters brought nineteen cases with over 45 counts challenging the results showing that he lost Pennsylvania. Putting aside the claims challenging, wholesale and without evidence, millions of ballots cast, the number of votes challenged was significantly smaller than Joe Biden's official margin of victory; thus, even if every challenge were meritorious, this would not have been enough to produce a different outcome. No lawsuits brought by the Trump Campaign or its supporters focused directly on voter fraud and, in many instances, as described below, plaintiffs acknowledged their challenges were not the product of or even a signpost for fraud. An Associated Press survey of county elections officials in 2021 found just 26 potential cases of voter fraud in the 2020 election, representing 0.03% of Biden's margin of victory.²¹⁰

According to Pennsylvania election officials who certified the results, President Biden carried Pennsylvania by a margin of 80,555 votes out of 6.9 million cast. Biden received 50% of the vote. Trump received 48.8%.²¹¹ In 2016, President Trump carried Pennsylvania by a margin of 44,292 votes out of more than six million cast.²¹² Trump received 48.2% of the vote. Clinton received 47.5%.²¹³

While Biden's largest vote margins came from dense population centers with large Black populations,²¹⁴ including Philadelphia and Pittsburgh,²¹⁵ he made gains in Republican counties and outperformed Clinton in counties she won in 2016.²¹⁶ Democrats saw increased support in suburban Philadelphia counties (as compared to 2016), while Republican gains in suburban Pittsburgh were not as great.²¹⁷

Despite not filing any legal actions based on fraud, Trump did claim fraud in several tweets. In one set of tweets, he alleged that Richard Hopkins, a postal worker, had heard the Erie County postmaster tell a supervisor "that they had 'messed up' by failing to backdate the postmark on

²¹⁰ *State Details of AP's Review of Potential Voter Fraud Cases*, *supra* note 74; Cassidy, *supra* note 19.

²¹¹ *Pennsylvania Election Results 2020*, POLITICO (last updated Jan. 6, 2021), <https://www.politico.com/2020-election/results/pennsylvania/>; Penn. Dep't of State, *Pennsylvania's Election Stats* (last visited Dec. 14, 2021), <https://www.dos.pa.gov/VotingElections/BEST/Pages/BEST-Election-Stats.aspx>; *Pennsylvania Breaks Voter Turnout Record in 2020 Election*, KDKA-TV NEWS (Nov. 17, 2020), <https://www.cbsnews.com/pittsburgh/news/pennsylvania-2020-election-voter-turnout/>.

²¹² *Pennsylvania Election Results 2016*, N.Y. TIMES (Sept. 13, 2017), <https://www.nytimes.com/elections/2016/results/pennsylvania>.

²¹³ *Id.*

²¹⁴ *Pennsylvania Election Results 2020*, *supra* note 211.

²¹⁵ Keith Collins et al., *How Biden Flipped Pennsylvania & Won the Election*, N.Y. TIMES (Nov. 10, 2020), <https://www.nytimes.com/interactive/2020/11/07/us/elections/pennsylvania-counties-battleground-state.html>; United States Census Bureau, https://data.census.gov/cedsci/map?g=0400000US42%240500000&tid=DECENNIALPL2020.P1&cid=P1_004N&vintage=2020&layer=VT_2020_050_00_PY_D1&mode=thematic&loc=40.8334,-78.0322,z6.8593.

²¹⁶ Holly Otterbein, *How Pennsylvania Was Won*, POLITICO (Nov. 7, 2020), <https://www.politico.com/news/2020/11/07/how-pennsylvania-was-won-434974>.

²¹⁷ Frey, *supra* note 118.

ballots that arrived after Election Day.”²¹⁸ Hopkins later admitted that the story was not true.²¹⁹ Trump’s campaign director of Election Day operations, Mike Roman, also broadcast on Twitter that “ballot-stuffing” had occurred in Philadelphia based on a video that showed a woman dropping off three ballots in a ballot drop box.²²⁰ State officials rejected the video as evidence of fraud because voters are allowed to drop off ballots on behalf of others.²²¹

Pennsylvania completed a statewide risk-limiting audit of the 2020 Presidential Election in February 2021. Sixty-three of Pennsylvania’s 67 counties participated in reviewing a statistical sample of more than 45,000 randomly selected ballots. “The results of the sample mirrored the reported Presidential Election results across the participating counties within a fraction of a percentage point,” confirming the accuracy of the vote count.²²² As of December 2021, some Republican state senators were pursuing a forensic audit of the state’s election results using an Iowa-based firm that has never conducted an election review and that was hired under a no-bid contract. As of this writing, there are no results of this.²²³

Legal challenges in Pennsylvania largely focused on procedural defects, such as absentee-voting procedures, extended deadlines, or technically deficient ballots, rather than direct allegations of fraud. These challenges fall into three categories of claims described below. None succeeded and every court to review these claims determined that there was no fraud that would have altered the outcome of the election.

1. Extending Election Deadlines.

Challenges to ballot-deadline extensions met some success based on state statutes, but no court found any evidence of fraud connected with extended deadlines.

In advance of the election, the Pennsylvania Secretary of State issued guidance to county Boards of Election (“BOEs”) that extended the cure period for which no verified proof of

²¹⁸ Ann Gerhart, *Election Results Under Attack: Here Are the Facts*, WASH. POST (last updated Mar. 11, 2021), <https://www.washingtonpost.com/elections/interactive/2020/election-integrity/>.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² Penn. Dep’t of State, *Post-Election Audits* (last visited Dec. 14, 2021), <https://www.votespa.com/About-Election>.

²²³ Marc Levy, *Pa. GOP’s Election Inquiry: Courts, Conspiracies, and More Costs*, ASSOCIATED PRESS (Feb. 4, 2022), <https://whyy.org/articles/pa-gops-election-inquiry-courts-conspiracies-more-costs/>; Sam Dunklau, *Pa. Senate Election “Audit” Contract Doesn’t Say If the Public Will See the Results*, WITF (Dec. 7, 2021), <https://whyy.org/articles/pa-senate-election-audit-contract-doesnt-say-if-the-public-will-see-the-results/>; Joe Napsha, *Process of Pending Pennsylvania Election Audit Remains Shrouded in Secrecy*, TRIB LIVE (Nov. 23, 2021), <https://triblive.com/news/pennsylvania/process-of-pending-pennsylvania-election-audit-remains-shrouded-in-secrecy/>; Nathan Layne, *Trump Ally in Pennsylvania Pushes for Arizona-Style Audit of 2020 Election*, REUTERS (July 7, 2021), <https://www.reuters.com/world/us/trump-ally-pennsylvania-pushes-arizona-style-audit-2020-election-2021-07-07/>; see also Katie Meyer, *Pa. Republicans Are Taking Election “Audits” Seriously. Here’s What to Know About Their Plan*, WHYY (July 18, 2021), <https://whyy.org/articles/pa-republicans-are-taking-election-audits-seriously-heres-what-to-know-about-their-plan/>.

identification was received by the statutory deadline. A state court invalidated this guidance as barred by statute.²²⁴

In September 2020, the Pennsylvania Supreme Court granted a three-day extension of the deadline for receipt of absentee and mail-in ballots, permitting ballots to be counted if mailed and postmarked by 8:00 p.m. on Election Day and received by 5:00 p.m. on November 6, 2020, determining that COVID-19 was a natural disaster that justified such an extension.²²⁵ This decision may be questionable as an interpretation of state law, but on review in the United States Supreme Court the state agreed to sequester any ballots received by mail after 8:00 p.m. on Election Day, so that the issue could be litigated on the merits if it would affect the outcome of the election.²²⁶ As it happened, the number of ballots at issue were so few (10,000) that, even if all were cast for Trump, they would not have changed the outcome of the race.²²⁷ The Supreme Court subsequently denied a petition for certiorari, presumably because the question presented no longer would have real-world significance for the election.²²⁸

A challenge to Pennsylvania's universal mail-in voting statute failed as untimely.²²⁹ The Pennsylvania Supreme Court dismissed the case and vacated a preliminary injunction order that the lower court had entered enjoining the certification of election results.²³⁰ This is the sort of election administration question that must be resolved in advance of an election. There are reasonable arguments for and against universal mail-in voting, but the adoption of such a system by a state cannot be considered fraud or vote-stealing.

2. *Inadequate Observation of Ballot Processing.*

Trump made several uncorroborated allegations of observer-related violations. He alleged on Twitter that as many as 700,000 ballots were not allowed to be viewed while processed in Philadelphia and Pittsburgh.²³¹ Plaintiffs allied with the Trump Campaign made similar allegations in lawsuits. These claims uniformly failed in court.

One federal court dismissed claims that the Trump Campaign's watchers were prevented from observing the opening, reviewing, and counting of ballots, noting that the Campaign had failed to plead differential treatment of its watchers.²³² The Third Circuit affirmed, noting as well that the Trump Campaign did not make allegations that the alleged inadequate observation resulted in fraud.²³³

²²⁴ Donald J. Trump for President v. Boockvar, No. 602 MD 2020 (Pa. Commw. Ct. Nov. 12, 2020).

²²⁵ Pennsylvania Democratic Party v. Boockvar, 238 A.3d 345, 370–72 (Pa. 2020), *cert. denied sub nom.* Republican Party of Pennsylvania v. Degraffenreid, 141 S. Ct. 732 (2021).

²²⁶ Republican Party of Pennsylvania v. Boockvar, No. 20A84, 208 L. Ed. 2d 293 (U.S. 2020).

²²⁷ Jonathan Lai, *About 10,000 Pa. Mail-In Ballots Arrived After Election Day: They Are Thrown Out*, THE MORNING CALL (Nov. 11, 2020), <https://www.mcall.com/news/nation-world/ct-pennsylvania-election-results-20201111-jnbso56erbgxlfv244lipxdyy-story.html>.

²²⁸ Republican Party of Pennsylvania v. Degraffenreid, 141 S. Ct. 732, 739 (2021).

²²⁹ Kelly v. Commonwealth, No. 68 MAP 2020, 240 A.3d 1255 (Pa. 2020).

²³⁰ *Id.*

²³¹ Gerhart, *supra* note 218.

²³² Donald J. Trump for President, Inc. v. Boockvar, 502 F. Supp. 3d 899, 921–22 (M.D. Pa. 2020).

²³³ Donald J. Trump for President, Inc. v. Sec'y of Pa., 830 F. App'x 377, 386 (3d Cir. 2020).

The Pennsylvania Supreme Court upheld a requirement that observers in Philadelphia County maintain at least fifteen feet of distance from ballot processors and follow other COVID-19 protocols. The rules were “reasonable in that they allowed candidate representatives to observe the Board conducting its activities as prescribed under the Election Code.”²³⁴ Republican and Democratic observers were subject to the same rules.

Another lawsuit was voluntarily dismissed after the parties reached an agreement by which 60 observers each from the Democratic and Republican parties were permitted to observe the mail-in ballot counting process in Philadelphia County.²³⁵

3. *Counting Deficient—But Not fraudulent—Absentee Ballots.*

Some 2.63 million mail and absentee ballots were cast in Pennsylvania.²³⁶ Challenges to allegedly deficient ballots met with some success, but not on grounds of fraud.

A state trial court, affirmed by a state appellate court, dismissed a Trump Campaign suit challenging 2,177 absentee and mail-in ballots cast in Bucks County. The suit was based on purported deficiencies such as unsealed privacy envelopes or ballots without a date handwritten on the outer envelope.²³⁷ The state court found that “[t]here is nothing in the record and nothing alleged that would lead to the conclusion that any of the challenged ballots were submitted by someone not qualified or entitled to vote in this election.”²³⁸ For over 175 years, courts have (almost) uniformly held that formal defects that do not create ambiguities regarding voter intent or have any indicia of fraud should be counted.²³⁹

A state court similarly dismissed allegations regarding almost 600 absentee and mail-in ballots cast in Montgomery County, ballots challenged on the ground that the voters failed to fill out their address immediately below their declaration on the outer ballot envelope.²⁴⁰ The ballots substantially complied with statutory requirements, and there were no allegations of fraud or improper influence.²⁴¹

The Pennsylvania Supreme Court likewise dismissed similar challenges to 8,329 votes in Philadelphia County and 2,349 votes in Allegheny County. The court held that the state election code did not require the disqualification of “mail-in or absentee ballots submitted by qualified

²³⁴ *In re Canvassing Observation*, 241 A.3d 339, 351 (Pa. 2020).

²³⁵ *Donald J. Trump for President, Inc. v. Phila. Cnty. Bd. of Elections*, No. 2:20-cv-05533 (E.D. Pa. Nov. 5, 2020); John L. Micek, *Trump Federal Lawsuit Over Election Observers Resolved, Report*, PA. CAPITAL-STAR (Nov. 5, 2020), <https://www.penncapital-star.com/livefeeds/trump-federal-lawsuit-over-election-observers-resolved-report/>.

²³⁶ *Pennsylvania’s Election Stats*, *supra* note 211.

²³⁷ *In re Canvass of Absentee & Mail-In Ballots of November 3, 2020, Gen. Election*, No. 20-05786-35 (Bucks Cnty. Pa. Com. Pl. Nov. 19, 2020), *aff’d* 1191 C.D. 2020 (Pa. Commw. Ct. Nov. 25, 2020).

²³⁸ *Id.*

²³⁹ See Edward B. Foley, *BALLOT BATTLES: THE HISTORY OF DISPUTED ELECTIONS IN THE UNITED STATES* 163 (2016) (referring to a decision by the Maine Supreme Court to this effect in 1837 as “leading in nation”).

²⁴⁰ *Donald J. Trump for President v. Montgomery Cnty. Bd. of Elections*, No. 2020-18680 (Montgomery Cnty. Ct. Com. Pl. Nov. 13, 2020).

²⁴¹ *Id.*

electors who signed the declaration on their ballot’s outer envelope but did not handwrite their name, their address, and/or a date, where no fraud or irregularity had been alleged.”²⁴²

In perhaps the most dramatic Pennsylvania case, the Trump Campaign sought to disqualify some seven million absentee and mail-in ballots on the basis of allegations that they (i) lacked a secrecy envelope, (ii) did not include a dated and signed declaration on the outside envelope, or (iii) were delivered by third parties for non-disabled voters.²⁴³ Counsel for the Campaign, Rudy Giuliani, told the court that there was “widespread, nationwide voter fraud,” but under questioning by the judge, he stated, “[t]his is not a fraud case.”²⁴⁴ After examining the allegations, the district court wrote, “[o]ne might expect that when seeking such a startling outcome [as discarding millions of legally cast votes], a plaintiff would come formidably armed with compelling legal arguments and factual proof of rampant corruption Instead, this Court has been presented with strained legal arguments without merit and speculative accusations, unpled in the operative complaint and unsupported by evidence.”²⁴⁵ In an opinion by Trump appointee Stephanos Bibas, the Third Circuit affirmed, writing that the Trump Campaign’s claims “have no merit,” that they challenged a number of ballots “far smaller than the roughly 81,000-vote margin of victory,” and that the Trump Campaign “never claim[ed] fraud or that any votes were cast by illegal voters.”²⁴⁶

It is a disservice to the public for representatives of a campaign, especially the campaign of an incumbent president, to make and repeat the claim that there is proof of massive voter fraud, only to abandon any claim of fraud in the courtroom, where there are rules of evidence. When Democrats have done this (on far smaller scale), Republicans have been rightly critical. It is important for Republicans as well as Democrats to insist on rigorous proof—not speculation, not rumor-mongering—when claiming that an election has been stolen.

Two Pennsylvania state courts did order provisional relief, but not based on fraud. A split panel enjoined Allegheny County officials from counting 270 provisional ballots for which voters had signed the outer envelope in only one of two required places or that were deemed otherwise defective.²⁴⁷ Another state court ordered officials to set aside provisional ballots cast on Election Day by voters whose absentee or mail-in ballots were also timely received.²⁴⁸

²⁴² *In re* Canvass of Absentee & Mail-In Ballots of November 3, 2020, Gen. Election, 241 A.3d 1058, 1062 (Pa. 2020).

²⁴³ Complaint at 8, *Donald J. Trump for President, Inc. v. Boockvar*, No. 4:20-cv-02078, 502 F. Supp. 3d 899, 906 (M.D. Pa. 2020).

²⁴⁴ Tessa Berenson, *Donald Trump and his Lawyers Are Making Sweeping Allegations of Voter Fraud in Public. In Court, They Say No Such Thing*, TIME (Nov. 20, 2020), <https://time.com/5914377/donald-trump-no-evidence-fraud/>.

²⁴⁵ *Donald J. Trump for President, Inc. v. Boockvar*, 502 F. Supp. 3d 899, 906 (M.D. Pa. 2020).

²⁴⁶ *Donald J. Trump for President, Inc. v. Sec’y of Pa.*, 830 F. App’x 377, 382 (3d Cir. 2020).

²⁴⁷ *Zicarelli v. Allegheny Cnty. Bd. of Elections*, No. GD-20-011793 (Allegheny Cnty. Ct. Com. Pl. Nov. 18, 2020), *rev’d sub nom. In re Allegheny Cnty. Provisional Ballots in the 2020 Gen. Election*, No. 1161 C.D. 2020 (Pa. Commw. Ct. Nov. 19, 2020).

²⁴⁸ *Hamm v. Boockvar*, No. 600 M.D. 2020 (Pa. Commw. Ct. Nov. 6, 2020).

4. *Pre-Election Challenges to Changed Voting Procedures.*

The Pennsylvania legislature enacted a “no excuse” absentee-voting law in October 2019 (Act 77). Subsequently, state election officials made a number of decisions about how to administer the new system, some of which were controversial. As was their right, the Trump Campaign filed lawsuits challenging the law and many of these procedures in both state and federal courts. Some of these challenges succeeded and some failed.²⁴⁹ For example, the court agreed with the plaintiffs that it was not legal to count mail-in ballots that lacked the outer, “secrecy” envelope, holding that this requirement was a reasonable safeguard for the secret ballot.²⁵⁰ After taking and analyzing extensive expert evidence from both sides regarding fraud risks, the courts rejected the Trump Campaign’s challenges to the use of ballot drop boxes.²⁵¹ The merits of these challenges may reasonably be debated, but the point is that the challenges were brought in a proper forum at the proper time, and were rejected in accordance with normal procedures for resolution of an election dispute.

5. *Voter Fraud.*

No lawsuits focused principally on voter fraud, as opposed to other deficiencies with ballots or improper deadlines, as discussed above.

Summary

Contrary to public claims, Trump made no formal allegation of voter fraud in Pennsylvania, and there was no widespread fraud. The Associated Press identified just 26 *potential* cases of voter fraud, but these represent just 0.03% of Biden’s margin of victory, far, far too few to have any impact on the result. Procedural claims, not based on fraud, met with some success, but none impugned the outcome of the election. To be sure, the legislature made significant last-minute changes in voting procedures, which inspired challenges under Pennsylvania (not federal) constitutional law. Last-minute changes are not optimal, and we would hope that this experience would not be repeated outside the circumstances of the COVID-19 emergency. But the new procedures (“no excuse” mail-in ballots) have been used in other states for years without incident, and there is no evidence that they resulted in any increase in fraud.

Addendum

A list of state and federal cases filed in Pennsylvania follows.

²⁴⁹ Pennsylvania Democratic Party v. Boockvar, 238 A.3d 345 (Pa. 2020); Donald J. Trump for President, Inc. v. Boockvar, 493 F. Supp. 3d 331 (W.D. Pa. 2020).

²⁵⁰ Pennsylvania Democratic Party v. Boockvar, 238 A.3d at 374-80.

²⁵¹ Donald J. Trump for President, Inc. v. Boockvar, 493 F. Supp. 3d 331, 352-64 (W.D. Pa. 2020).

ADDENDUM

Case	Claim	Result
Trump v. Boockvar, No. 2:20-cv-966 (W.D. Pa.)	<i>Pre-Election:</i> Trump Campaign alleged that Pennsylvania’s “no excuse” mail-in voting plan—including the validity of ballot drop boxes and the permissibility of counting mail-in ballots that suffer from certain procedural defects—was unconstitutional and could lead to fraud and vote dilution.	Judge initially stayed the case so state courts could provide clarity on the unsettled state-law issues underlying the claims. After the Pennsylvania Supreme Court ruled on the issues, this court found for the defendants on all federal claims, declined to exercise supplemental jurisdiction over state-law claims, and dismissed the case.
Republican Party of Pennsylvania v. Degraffenreid, 407 MD 2020 (Pa. Commw. Ct.); 133 MM 2020 (Supr. Ct. of Pa.); Nos. 20-542, 20-574 (U.S.)	<p><i>Pre-Election:</i> Democratic Party of Pennsylvania sought declarations that county elections boards had authority to establish temporary drop boxes for mail-in ballots, extend the absentee-ballot deadline, and “cure” ballot defects; and a declaration that the states’ poll-watcher residency requirement was constitutional.</p> <p>The state’s Republican Party sought a stay in the U.S. Supreme Court after plaintiffs’ request was partially granted, alleging that the court usurped the legislature’s authority by extending the deadline for accepting ballots.</p>	<p>Pennsylvania Supreme Court held that county elections boards could establish temporary mail-in ballot drop boxes, allowed a three-day extension to 5:00 p.m. on November 6, 2020, of the absentee and mail-in ballot received-by deadline, and upheld the poll-watcher residency requirement.</p> <p>The U.S. Supreme Court denied the stay application; Justice Alito later granted the Republican Party’s request to segregate ballots received by mail after 8:00 p.m. on Nov. 3, 2020, pending certiorari decision. The Court ultimately denied certiorari.</p>
Trump v. Philadelphia County Board of Elections, No. 200902035 (Philadelphia Cnty. Ct. Com. Pl.); 983 C.D. 2020 (Pa. Commw. Ct.)	<i>Pre-Election:</i> Trump Campaign filed an emergency petition requesting permission for its representatives to observe ballot processing in satellite election offices.	State court denied the petition because state law allowed election watchers to be present in polling places but not satellite offices. The state intermediate appellate court affirmed.
In re: November 3, 2020 General Election,	The Secretary of State asked the Pennsylvania Supreme Court to determine whether the	The Pennsylvania Supreme Court held that the Code does not authorize or require county elections

<p>149 MM 2020 (Supr. Ct. of Pa.); No. 20-845 (U.S.)</p>	<p>Election Code authorizes or requires county elections boards to reject absentee or mail-in ballots based on alleged or perceived signature variances.</p>	<p>boards to reject absentee or mail-in ballots based on an analysis of a voter’s signature. The U.S. Supreme Court denied certiorari.</p>
<p>Bognet v. Boockvar, No. 3:20-cv-215 (W.D. Pa.); No. 20-3214 (3d Cir.), No. 20-740 (U.S.)</p>	<p><i>Pre-Election:</i> Congressional candidate and several voters alleged that the Pennsylvania Supreme Court unconstitutionally usurped the state legislature and Congress’s power by adopting a three-day extension of the received-by deadline for absentee and mail-in ballots and by adopting a presumption of timeliness for ballots received on or before 5:00 p.m. on November 6, 2020.</p>	<p>Judge concluded that the plaintiffs were likely to succeed on the merits of their equal-protection claim related to the “Presumption of Timeliness,” but denied the petition because the claims were brought too close to the election. The Third Circuit affirmed; the U.S. Supreme Court granted certiorari, vacated the judgment, and remanded with instructions to dismiss the case as moot.</p>
<p>In re: Canvassing Observation/Donald J. Trump for President, Inc. v. Degraffenreid, 201107003 (Phila. Cnty. Ct. Com. Pl.); 1094 C.D. 2020 (Pa. Commw. Ct.); 30 EAP 2020 (Supr. Ct. of Pa.); No. 20-845 (U.S.)</p>	<p>Trump Campaign alleged that election officials did not provide designated observers meaningful access to observe the elections board employees who were canvassing the absentee and mail-in ballots; instead, they had to stand 15–18 feet from officials, which was too far to read any ballots and ensure the officials were logging them correctly.</p>	<p>After an evidentiary hearing, state court dismissed the case, holding that state law does not require that observers have the opportunity to “meaningfully . . . see the process.” The intermediate appellate court reversed, holding that the law was ambiguous and, to comport with the purpose of the law, observers should be able to ascertain sufficient details to assess the process. The Pennsylvania Supreme Court reinstated the trial court’s order, finding that the regulations were reasonable. Two justices filed dissenting opinions. The U.S. Supreme Court denied certiorari.</p>
<p>Hamm v. Boockvar, 600 M.D. 2020 (Pa. Commw. Ct.)</p>	<p>Candidates and voters sought an order prohibiting the Secretary of State from (1) permitting invalidly submitted absentee and mail-in ballots to be “cured” by submission of provisional ballots and (2) disclosing identifying information about voters who</p>	<p>State court granted plaintiffs’ request in part, ordering that provisional ballots cast on Election Day by electors whose absentee or mail-in ballots had been timely received should be segregated and secured from other provisional ballots pending a determination as to each ballot’s validity.</p>

	submitted ballots that must be rejected for non-compliance with state law.	
Donald J. Trump for President v. Boockvar, 602 M.D. 2020 (Pa. Commw. Ct.)	Trump Campaign sought an injunction prohibiting the Secretary of State from counting ballots for which proof of identification was not received and verified by Nov. 9, 2020.	State court ordered county elections boards to segregate ballots, for which identification was received and verified after Nov. 9, 2020, and later, held that the Secretary impermissibly exceeded authority by changing the identification deadline and enjoined the elections boards from counting the segregated votes.
Donald J. Trump for President, Inc. v. Philadelphia County Board of Elections , No. 2:20-cv-05533 (E.D. Pa.)	Trump Campaign alleged that the Philadelphia County elections board violated state law by denying party representatives access to observe the ballot-counting process.	The parties settled.
Donald J. Trump for President, Inc. v. Montgomery County Board of Elections , No. 2020-18680 (Montgomery Cnty. Ct. Com. Pl.)	Trump Campaign alleged that the Montgomery County elections board violated state law when it allegedly canvassed and counted 592 absentee and mail-in ballots for which the outer declaration envelope was not completely filled with the voter’s signature, address, and date.	State court denied the Campaign’s petition, holding that state law does not require a voter to provide their address on the declaration envelope. The court concluded that the 592 challenged ballots must be counted.
Barnette v. Lawrence, No. 2:20-cv-5477 (E.D. Pa.)	Presidential Electors alleged that the Montgomery County elections board violated state law by pre-canvassing mail-in ballots received before Nov. 3, 2020, and by permitting deficient ballots to be cured.	Judge denied plaintiffs’ motion for a temporary restraining order. Plaintiffs then voluntarily dismissed.
In re: Canvass of Absentee and Mail-In Ballots of November 3, 2020 Election, No. 20-05786-35 (Bucks Cnty. Ct. Com. Pl.); 1191 C.D. 2020 (Pa. Commw. Ct.); 676 MAL 2020 (Supr.	Trump Campaign alleged that the Bucks County elections board violated state law by counting 2,177 deficient absentee and mail-in ballots.	State court dismissed case, finding among other things no evidence that the absence of a sealed inner envelope jeopardized the privacy of the ballot. Intermediate appellate court affirmed, noting that the parties stipulated that there was neither evidence of fraud nor that ineligible voters voted. Pennsylvania Supreme Court denied an emergency

Ct. of Pa.); No. 20-845 (U.S.)		petition for appeal, and the U.S. Supreme Court denied expedited consideration and later denied certiorari.
Donald J. Trump for President, Inc. v. Boockvar, No. 4:20-cv-02078 (M.D. Pa.); No. 20-3371 (3d Cir.)	Trump Campaign alleged that the Secretary of State and various county elections boards prevented the Campaign’s observers from meaningful access to view pre-canvass and canvassing activities and improperly permitted mail-in ballots to be cured. Campaign asked court to enjoin certification of the election results.	Judge dismissed the case and concluded that Trump Campaign had failed to plead that its watchers were treated differently from Biden Campaign watchers and concluded that alleged differences in implementation among counties was not equal protection violation. Third Circuit affirmed, holding that the Campaign was unlikely to succeed on the merits and was unable to show irreparable harm.
Pirkle v. Wolf, No. 4:20-cv-02088 (M.D. Pa.)	Voters alleged that Philadelphia, Montgomery, Delaware, and Allegheny Counties unlawfully counted ballots that should not have been included in the state’s certified results.	Plaintiffs voluntarily dismissed.
In re: Canvass of Absentee and Mail-In Ballots, Nos. 201100874–201100878 (Philadelphia Cnty. Ct. Com. Pl.); 31-35 EAP 2020 (Supr. Ct. of Pa.); No. 20-845 (U.S.)	Trump Campaign alleged that the Philadelphia County elections board violated state law by counting 8,329 absentee and mail-in ballots containing technical defects such as a missing date next to a signature, a missing printed name of the voter, and/or a missing street address for the voter.	State court dismissed the claim, holding that missing components—date and printed address on internal envelope—were not requirements necessary to prevent fraud. Pennsylvania Supreme Court affirmed, noting that the failure to include a handwritten name, address, or date in the voter declaration is a technical violation of the Election Code but does not warrant the wholesale disenfranchisement of thousands of voters. The U.S. Supreme Court declined expedited consideration and later denied certiorari.
In re: 2,349 Ballots in the 2020 General Election, No. GD20-011654 (Allegheny Cnty. Ct. Com. Pl.); 1162 C.D. 2020 (Pa. Commw. Ct.); 29	State Senate candidate alleged that the Allegheny County elections board violated state law by allowing 2,349 mail-in ballots lacking the date written by the elector on the outer envelope to be counted.	State court held that the ballots were properly counted because defects were minor and technical. The intermediate appellate court reversed, holding that state law clearly required the missing information. Pennsylvania Supreme

<p>WAP 2020 (Supr. Ct. of Pa.); No. 20-845 (U.S.)</p>		<p>Court reversed, holding that minor, technical violations of the Election Code do not warrant the wholesale disenfranchisement of thousands of voters. U.S. Supreme Court denied expedited consideration and certiorari.</p>
<p>In re: Allegheny County Provisional Ballots, GD 20-011793 (Allegheny Cnty. Ct. Com. Pl); 1161 C.D. 2020 (Pa. Commw. Ct.); 338 WAL 2020 (Supr. Ct. of Pa.)</p>	<p>State Senate candidate alleged that 270 provisional ballots were defective either because they lacked a required signature or affidavit or for another reason.</p>	<p>State court concluded that no fraud occurred, and voters did as they were told by officials, so the provisional ballots should be counted. Intermediate appellate court reversed, concluding that the Election Code clearly prohibits counting deficient ballots. It ordered that the 270 ballots not be counted. One judge dissented. Pennsylvania Supreme Court denied the petition for appeal.</p>
<p>Kelly v. Pennsylvania, 620 MD 2020 (Pa. Commw. Ct.); 68 MAP 2020 (Supr. Ct. of Pa.); No. 20-810 (U.S.)</p>	<p>Congressman and several voters alleged that “no excuse” absentee voting law unlawfully expanded the scope of absentee voting. Plaintiffs sought a temporary restraining order against certification while the courts ruled on the issue.</p>	<p>State court temporarily enjoined certification of results. The Pennsylvania Supreme Court vacated the injunction and dismissed with prejudice because plaintiffs failed to challenge year-old law in a timely manner. One justice dissented. U.S. Supreme Court denied expedited consideration and certiorari.</p>
<p>Metcalf v. Wolf, 636 MD 202 (Pa. Commw. Ct.)</p>	<p>Plaintiff electors alleged that the defendants failed to implement recommendations provided in a Performance Audit Report conducted by the Department of the Auditor General and disregarded the state Election Code by authorizing officials to count defective absentee and mail-in ballots. Electors sought order requiring Governor Tom Wolf to decertify state’s election results and an injunction stopping state’s Electors from casting votes.</p>	<p>State court dismissed claim as filed after statutory deadline for initiating an election contest.</p>

Wisconsin

Donald Trump and his supporters brought seven cases with sixteen counts in Wisconsin, alleging that fraudulent votes were counted and that elections officials violated the law in their rulings on the counting and casting of ballots. Both federal and state courts examined these allegations, and found them all baseless. Post-election analyses have confirmed the courts' rulings that no systemic fraud existed that would have altered the election results. In an October 2021 report, the Wisconsin Legislative Audit Bureau, a non-partisan and independent body, found no evidence of widespread fraud that would alter the election results.²⁵² In December 2021, the conservative Wisconsin Institute for Law & Liberty likewise found no evidence of widespread voter fraud and no evidence of significant problems with voting machines—in fact, they found that Democratic candidates performed worse than expected in areas with Dominion machines.²⁵³ Similarly, in December 2021, the Associated Press concluded its study of the election, which found no evidence of widespread fraud. The AP survey of local elections officials and prosecutors identified 31 potential cases of voter fraud, representing less than 0.15% of Biden's margin of victory.²⁵⁴

According to Wisconsin officials' certification of the results, President Biden carried Wisconsin by a margin of 20,682 votes out of 3.3 million cast.²⁵⁵ Biden received 49.57% of the vote. Trump received 48.94%.²⁵⁶ In 2016, President Trump carried Wisconsin by a margin of 22,748 votes out of nearly three million cast.²⁵⁷ Trump received 47.2% of the votes cast to Clinton's 46.5%.²⁵⁸ The 2020 voter turnout was the largest ever in Wisconsin. At least 72% of the voting-age population cast ballots.²⁵⁹

Biden's win has been attributed to improved performance in Wisconsin suburban and smaller metropolitan counties, as well as traditional Democratic strength in urban areas.²⁶⁰ Republicans' margins in Milwaukee's suburban counties were lower than in 2016, while Democrats made gains in urban cores and large suburbs and reduced their losses in small metropolitan areas.²⁶¹

²⁵² Wisconsin Legislative Audit Bureau, *Report 21-19, Elections Administration* (Oct. 2021), <https://legis.wisconsin.gov/lab/media/3288/21-19full.pdf>.

²⁵³ Will Flanders et al., *A Review of the 2020 Election*, WIS. INST. FOR LAW & LIBERTY (Dec. 2021), <https://will-law.org/election-integrity/>; Alison Durkee, *Wisconsin Conservative Group Finds "No Evidence of Widespread Fraud" in 2020 Election*, FORBES (Dec. 7, 2021), <https://www.forbes.com/sites/alisondurkee/2021/12/07/wisconsin-conservative-group-finds-no-evidence-of-widespread-fraud-in-2020-election/?sh=4d9ab7e645be>.

²⁵⁴ Cassidy, *supra* note 19; *State Details of AP's Review of Potential Voter Fraud Cases*, *supra* note 74.

²⁵⁵ *Trump v. Wisconsin Elections Comm'n*, 506 F. Supp. 3d 620, 629 (E.D. Wis. 2020); *Presidential Election Results*, FOX NEWS, <https://www.foxnews.com/elections/2020/general-results>.

²⁵⁶ *Presidential Election Results*, *supra* note 255.

²⁵⁷ *Wisconsin Election Results 2016*, N.Y. TIMES (Aug. 1, 2017), <https://www.nytimes.com/elections/2016/results/wisconsin>.

²⁵⁸ *Id.*

²⁵⁹ Katelyn Ferral, *Big Margins in Cities, Gains in the Suburbs: How Joe Biden Won Wisconsin*, THE CAP. TIMES (Nov. 6, 2020), https://madison.com/ct/news/local/govt-and-politics/big-margins-in-cities-gains-in-the-suburbs-how-joe-biden-won-wisconsin/article_7b3bec6a-6cd0-545e-bbf4-84e929df191c.html.

²⁶⁰ Frey, *supra* note 118; Ferral, *supra* note 259.

²⁶¹ Frey, *supra* note 118.

“Biden’s success was due to motivating more voters in the state’s two largest urban areas—Dane and Milwaukee counties—than Hillary Clinton did four years ago.”²⁶²

Trump and his Campaign had the right under Wisconsin law to seek a recount either statewide or in certain counties.²⁶³ They chose a recount in only Milwaukee and Dane counties, traditional Democratic strongholds.²⁶⁴ The recounts resulted in a slightly larger lead for Biden.²⁶⁵ Legal challenges brought by Trump and aligned groups were all unsuccessful.

Still, some state government officials have lodged charges of fraud and crimes in the administration of the election. Former state Supreme Court Justice Michael Gableman issued an interim report on his investigation for Assembly Republicans that focused on how voting was conducted in nursing homes and on grants from the nonprofit Center for Tech and Civic Life that went to Wisconsin’s five largest cities to help them run the 2020 election during the COVID-19 pandemic. The Gableman report included only general charges and no specifics of illegal votes cast or counted sufficient to overturn the results of the election, but Gableman nonetheless publicly called on the state legislature to decertify Wisconsin’s electoral votes on those grounds, a statement from which he later distanced himself.²⁶⁶ The nonpartisan Wisconsin Legislative Council opined there is no authority for decertification under these circumstances, a conclusion we examine below.²⁶⁷

The allegations by Trump and his supporters fall into this category:

1. *Absentee-Voting Procedures.*

In March 2020, the Wisconsin Elections Commission issued guidance on absentee-voting procedures. Most of the lawsuits by Trump and his supporters challenged this guidance but were filed in November 2020, eight months after the actual rulings and after the election was held and the results known. It is entirely proper for campaigns to challenge new rules for election administration, but this must be done sufficiently before the election to enable corrections to be made. It would be an affront to democracy to disqualify votes that were cast in compliance with unchallenged procedures on account of lawsuits filed after the election has taken place and the other candidate has won.

No court found any evidence of widespread fraud or dubious activity that would have changed the outcome of the election. Two cases, one federal and one state, robustly analyzed

²⁶² Ferral, *supra* note 259.

²⁶³ WIS. STAT. § 9.01.

²⁶⁴ Nam Y. Huh, *Milwaukee County Spent Nearly \$1.7M on Presidential Recount*, WIS. STATE J. (Dec. 24, 2020), https://madison.com/wsj/news/local/govt-and-politics/elections/milwaukee-county-spent-nearly-1-7m-on-presidential-recount/article_05608ba1-530c-5e7c-aa21-68ca10cc1fd8.html.

²⁶⁵ Biden’s lead went from 20,427 votes to 20,682 votes. *Trump v. Biden*, 951 N.W.2d 568, 571 (2020).

²⁶⁶ Patrick Marley & Molly Beck, *Gableman Report to Wisconsin Republicans Promotes Legally Debunked Effort to Decertify 2020 Election*, MILWAUKEE J. SENTINEL (Mar. 1, 2022), <https://www.jsonline.com/story/news/politics/2022/03/01/gableman-report-promotes-legally-debunked-effort-decertify-election/9319277002/>; Patrick Marley & Molly Beck, *Michael Gableman Backs Away From Talk of Election Decertification, Republican Leaders Say*, MILWAUKEE J. SENTINEL (May 13, 2022) [hereinafter *Michael Gableman Backs Away*], <https://www.jsonline.com/story/news/politics/2022/05/13/gableman-backs-away-talk-decertification-republicans-say/9744178002/?gnt-cfr=1>.

²⁶⁷ *Michael Gableman Backs Away*, *supra* note 266.

election-abuse claims. In the federal case, the Trump Campaign alleged that three pieces of guidance from the Wisconsin Elections Commission impermissibly expanded standards for “indefinitely confined” voters, invited voter fraud by allowing the use of unstaffed drop boxes, and misled municipal clerks about their powers to complete or correct address information on absentee ballots.²⁶⁸ The Campaign asked that the election results be thrown out and the winner chosen by the state legislature.²⁶⁹ The federal district court (where the judge was a Trump appointee) dismissed the case, finding that “[a]t best, plaintiff has raised disputed issues of statutory construction on three aspects of election administration.”²⁷⁰ The state guidance fell within the legislature’s mandate, and the Campaign could have raised the issues before the election.²⁷¹ The Seventh Circuit affirmed, and the United States Supreme Court declined to consider the matter.²⁷²

Similar allegations fared no better in state court. There, the Trump Campaign alleged that election officials had violated several state laws governing the processing and counting of absentee and mail-in ballots. The Campaign asked the court to strike the following (from ballots in Dane County and Milwaukee County): all ballots from voters claiming to be indefinitely confined beginning March 25, 2020; ballots from all in-person absentee voters because the form used was not a “written application”; ballots on which officials improperly added witness information; and ballots collected at the Democracy in the Park event in Madison, Wisconsin, during which some 17,000 voters dropped off their absentee ballots.²⁷³ The court dismissed the case, finding “no credible evidence of misconduct or wide-scale fraud.”²⁷⁴ The Wisconsin Supreme Court affirmed. It held that the challenge regarding indefinitely confined voters was meritless on its face because the plaintiffs asked the court to strike *all* confined voters without regard to whether any individual voter was actually indefinitely confined.²⁷⁵ The other claims failed because the Campaign waited until after the unfavorable election outcome to bring them and then challenged only unfavorable results in Democratic-leaning counties.²⁷⁶ (The core holding of *Bush v. Gore* was that it violates the Equal Protection Clause to use different recount procedures for only the ballots challenged by one side.)²⁷⁷ One concurring opinion noted that “the President failed to point to even one vote cast in this election by an ineligible voter.”²⁷⁸ Another noted that the challenges were “not of widespread fraud or serious election improprieties” but “ordinary” election administration challenges, “for example, challenging whether an ‘application’ form in use statewide for a decade constitutes a sufficient application (it does). . . . Wisconsin’s electorate should be encouraged that the issues raised in this case are focused on

²⁶⁸ *Trump v. Wisconsin Elections Comm’n*, 983 F.3d 919, 923–24 (7th Cir. 2020) (explaining claims).

²⁶⁹ *Wisconsin Elections Comm’n*, 506 F. Supp. 3d at 624.

²⁷⁰ *Id.* at 639.

²⁷¹ *Id.* at 637, 639 n.10.

²⁷² *Trump v. Wisconsin Elections Comm’n*, 983 F.3d 919 (7th Cir. 2020), *cert. denied*, 141 S. Ct. 1516 (2021).

²⁷³ *Trump v. Biden*, No. 2020-cv-7092 (Milwaukee Cir. Ct. Dec. 11, 2020); *Biden*, 951 N.W.2d at 570 (explaining various claims).

²⁷⁴ Patrick Marley, *Trump Lawsuit in Wisconsin Is Thrown Out in a Fifth Adverse Ruling for the President in a Little Over a Week*, USA TODAY (Dec. 11, 2020),

<https://www.usatoday.com/story/news/politics/elections/2020/12/11/wisconsin-judge-hears-trump-election-case/6514932002/?scrolla=5eb6d68b7fedc32c19ef33b4>.

²⁷⁵ *Biden*, 951 N.W.2d at 571–572.

²⁷⁶ *Id.* at 571, 574.

²⁷⁷ 531 U.S. 98 (2000).

²⁷⁸ *Biden*, 951 N.W.2d at 578 (Dallet, J., concurring).

rather technical issues such as whether a witness must include their zip code as part of their address.²⁷⁹ The United States Supreme Court denied certiorari.²⁸⁰

Summary

There was no widespread voter fraud in Wisconsin. Trump-requested recounts only increased Biden's margin of victory. Legal claims targeted not fraud but ordinary election-administration challenges related to absentee and mail-in ballots. All were rejected.

Addendum

A list of state and federal cases filed in Wisconsin follows.

²⁷⁹ *Biden*, 951 N.W.2d at 583 (Hagedorn, J., concurring).

²⁸⁰ *Trump v. Biden*, 141 S. Ct. 1387 (2021).

ADDENDUM

Case	Claim	Result
Langenhorst v. Pecore, No. 1:20-cv-01701 (E.D. WI.)	Voters alleged that certain Wisconsin counties unlawfully counted fraudulent ballots.	Plaintiffs voluntarily dismissed four days after filing suit.
WI Voters Alliance v. Wisconsin Elections Commission, No. 2020AP1930 (Wis. Supr. Ct.)	Plaintiff alleged that the Wisconsin Elections Commission and local election officials counted unlawful absentee ballots, primarily in cities that received funds from Facebook CEO Mark Zuckerberg’s Center for Tech and Civic Life. Plaintiffs asked that the election results be declared void and the state legislature choose Electors.	Wisconsin Supreme Court denied petition for leave to file original action because “issues of material fact” prevented court’s review, and it would be better suited for circuit court review.
Mueller v. Jacobs, No. 2020AP1958 (Wis. Supr. Ct.)	A voter backed by the Amos Center for Justice and Liberty challenged the use of absentee-ballot drop boxes. Plaintiff asked the Wisconsin Supreme Court to set aside the results and direct the state legislature to choose Electors.	Wisconsin Supreme Court denied petition for leave to file original action, over three dissenting votes.
Feehan v. Wisconsin Elections Commission, 2:20-cv-1771 (E.D. WI.); No. 20-859 (U.S.)	Sidney Powell, former member of Trump’s legal team, and Lin Wood made several conspiracy accusations and alleged that election officials counted improperly filled-out absentee ballots.	Judge dismissed case for lack of jurisdiction. U.S. Supreme Court denied petitions for writs of mandamus.
Trump v. Evers, No. 2020AP1971 (Wis. Supr. Ct.)	Trump Campaign challenged Governor Tony Evers’ directive permitting absentee ballots to be issued to voters in Milwaukee County and Dane County who did not first submit a written application and alleged that improperly filled-out votes were counted in both counties; also alleged that Madison’s Democracy in the Park events violated state law. Plaintiff asked the Wisconsin Supreme Court to void the governor’s certification of the election and prohibit the governor from signing a certificate of election, set aside the results, and direct the state legislature to choose Electors.	Wisconsin Supreme Court denied petition for leave to file original action because circuit court provided adequate venue.
Trump v. WI Elections Commission, No. 20-cv-1785	Trump Campaign alleged that the Wisconsin Elections Commission unlawfully issued absentee ballots, proliferated unmanned mail-in ballot drop boxes, counted vast numbers of	After holding an evidentiary hearing, Judge determined that the commission did not violate

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(E.D. WI.); No. 20-3414 (7th Cir.); No. 20-883 (U.S.)	mail-in ballots outside the visibility of poll watchers, reduced or eliminated mandatory voter certifications for mail-in ballots, and permitted “ballot tampering.” Plaintiff asked that the case be remanded to the Wisconsin Legislature to consider the alleged election improprieties and to determine the appropriate remedy, including the appointment of Electors.	state or federal law. The Seventh Circuit affirmed. The U.S. Supreme Court denied the petition for expedited consideration and denied certiorari.
Trump v. Biden, 2020CV7092; 2020CV2514 (Consolidated) (Milwaukee Cir. Ct.); No. 2020AP2038 (Wis. Supr. Ct.); No. 882 (U.S.)	Trump Campaign appealed recount determinations in Milwaukee and Dane counties and alleged that state election officials violated state laws by processing and counting certain absentee and mail-in ballots.	State judge dismissed the case after adopting the defendants’ joint findings of fact. Wisconsin Supreme Court affirmed. The U.S. Supreme Court denied the petition for expedited consideration and denied certiorari.
